

MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with the resolutions of the Senate of the 16th and 18th instants, correspondence between the executive department and the present governor of Kansas, and between the executive and any governor or other officer of the government in Kansas, with any orders or instructions which may have been issued, together with other information relative to affairs in that Territory.

DECEMBER 23, 1857.—Read, and ordered to lie on the table and be printed.

To the Senate of the United States :

In answer to resolutions of the Senate of the 16th and 18th instants, requesting correspondence and documents relative to the Territory of Kansas, I transmit a report from the Secretary of State, and the papers by which it was accompanied.

JAMES BUCHANAN.

WASHINGTON, *December 22, 1857.*

DEPARTMENT OF STATE,
Washington, December 22, 1857.

The Secretary of State, to whom was referred the resolutions of the Senate of the 16th and 18th instants, requesting the President to communicate to that body "all correspondence between the executive department and the present governor of Kansas, together with such orders and instructions as have been issued to said governor in relation to the affairs of said Territory, together with the constitution and schedule referred to in the annual message," and "all correspondence between himself or any of the departments, and any governor or other officer or person in the employment of the government in Kansas Territory, not heretofore communicated, together with all orders and instructions which have been issued to the governor of said Territory, or any other officer or person in said Territory, in relation to Kansas

affairs," has the honor to lay before the President the papers mentioned in the subjoined list, which comprise all those on record or on file in this department called for by the resolutions, and to state that the constitution and schedule mentioned in that of the 16th instant, have not officially or otherwise been communicated to this department.

Respectfully submitted.

LEWIS CASS.

TO THE PRESIDENT OF THE UNITED STATES.

List of Accompanying Papers.

Mr. Cass to Mr. Walker, March 30, 1857.
 Same to same, March 30, 1857.
 Same to Mr. Stanton, March 31, 1857.
 Mr. Stanton to Mr. Cass, (with an enclosure,) April 17, 1857.
 Mr. Cass to Mr. Stanton, May 6, 1857.
 Mr. Walker to Mr. Cass, (with an enclosure,) May 9, 1857.
 Same to same, (with an enclosure,) June 2, 1857.
 Same to same, (with enclosures,) July 15, 1857.
 Same to same, July 20, 1857.
 Same to same, July 25, 1857.
 Mr. Cass to Mr. Walker, July 25, 1857.
 Mr. Walker to Mr. Cass, (with enclosures,) July 27, 1857.
 Mr. Cass to Mr. Walker, July 31, 1857.
 Mr. Walker to Mr. Cass, (with enclosures,) August 3, 1857.
 Same to same, August 18, 1857.
 Same to same, August 19, 1857.
 Mr. Cass to Mr. Walker, (with an accompaniment,) Aug. 23, 1857.
 Same to same, September 1, 1857.
 Same to same, September 2, 1857.
 Mr. Walker to Mr. Cass, (with enclosures,) September 26, 1857.
 Same to same, (with enclosures,) October 10, 1857.
 Same to same, October 10, 1857.
 Mr. Cass to Mr. Walker, October 21, 1857.
 Mr. Walker to Mr. Cass, (with enclosures,) November 3, 1857.
 Mr. Stanton to Mr. Cass, November 9, 1857.
 Mr. Stanton to the President, November 11, 1857.
 Mr. Cass to Mr. Stanton, November 30, 1857.
 Same to same, December 2, 1857.
 Same to same, December 8, 1857.
 Mr. Stanton to Mr. Cass, (with enclosures,) December 9, 1857
 Mr. Cass to Mr. Denver, December 11, 1857.
 Mr. Walker to Mr. Cass, December 15, 1857.
 Mr. Cass to Mr. Walker, December 18, 1857.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, March 30, 1857.

SIR: The President having appointed you governor of the Territory of Kansas, I herewith enclose your commission. You will be pleased to inform this department of the receipt of it, and, should it be accepted, of the name of the State or country in which you were born.

I am, sir, &c.,

LEWIS CASS.

ROBERT J. WALKER, Esq.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, March 30, 1857.

SIR: The state of things in Kansas has caused the President great solicitude. He is very anxious for the permanent continuance of the public peace and for the restoration of public confidence, so that the people of that Territory may enjoy tranquility and the exercise of all the rights which justly belong to them. This effected, a career of prosperity would be opened in consequence of the natural advantages of the country, probably not exceeded by any other region in our extensive territory. From causes not necessary to recapitulate, difficulties have existed there occasioning great uneasiness everywhere, and threatening the most disastrous consequences. It is believed that firmness and discretion in the administration of the territorial government will go far towards the permanent establishment of the peace which now prevails there, and it is hoped will prevent its future disturbance.

In seeking to procure the services of a citizen qualified to undertake these responsible duties with a prospect of success, the President was gratified to learn, when application was made to you, that you were willing to accept the office of governor of Kansas, and to devote yourself to the execution of its important duties. In this feeling he is confident the country will participate, and will find in your distinguished public services and in the high positions you have so ably filled, an assurance that the measures you adopt will be well calculated to assert the authority of the law.

The President was desirous that you should proceed immediately to Kansas and enter upon the executive duties. But as you had informed him in your letter of acceptance that circumstances beyond your control would render it impossible for you to leave here before the second Monday of May next, he assents to this delay, and trusts that immediately thereafter you will proceed to your government and enter upon your duties. And the President more readily assents to this arrangement, because, in the meantime, F. P. Stanton, esq., will accept the

office of secretary of the Territory, and, in your absence, will be vested with all the powers of the executive. He will immediately set out for Kansas. In accepting the office he has been animated by the same motives which have prompted you to make a sacrifice to the public interests, and he will command the confidence of the country by his well known services and experience and by his qualifications for the position.

Commissions for yourself and for him accompany these instructions.

There are two great objects connected with the present excitement growing out of the affairs of Kansas, and the attainment of which will bring it to a speedy termination. These were clearly and succinctly stated in the President's recent inaugural address, and I embody the paragraphs in this communication, asking your special attention to them. It is declared in that instrument to be "the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved;" and, "that being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference to decide their own destiny for themselves, subject only to the Constitution of the United States."

Upon these great rights of individual action and of public decision rests the foundation of American institutions, and if they are faithfully secured to the people of Kansas, the political condition of the country will soon become quiet and satisfactory. The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force or fraud. And foreign voters must be excluded, come whence they may, and every attempt to overawe or interrupt the free exercise of the right of voting must be promptly repelled and punished. Freedom and safety for the legal voter, and exclusion and punishment for the illegal one; these should be great principles of your administration.

The regular legislature of the Territory having authorized the assembling of a convention to frame a constitution to be accepted or rejected by Congress under the provisions of the Federal Constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose, under such authority, and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberation. When 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 against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.

The President concurs in the hope expressed by you, that the intervention of the military force will not be necessary; but should this just expectation be disappointed, he refers you for the measures you must adopt and for the necessary authority in that emergency to the instructions heretofore given by the President of the United States, and by this department to your predecessors.

Copies of these instructions accompany this communication, and

also copies of the instructions heretofore issued by the War Department, and of those issued by the present Secretary of War, respecting the employment of the troops of the United States, upon your requisition.

You will communicate freely with this department from time to time, so that the President may be kept informed as to the true state of things in Kansas.

I am, &c.,

LEWIS CASS.

ROBERT J. WALKER, Esq.

Mr. Cass to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, March 31, 1857.

SIR: You have been appointed secretary of the Territory of Kansas. Your commission has been sent to the Secretary of the Treasury, from whom you will receive it, when you shall have given security, as required by law, for the disbursement of the public money which may be entrusted to you; and you will herewith receive a letter addressed to Mr. Woodson, the present secretary, and who will be superseded upon your taking the oath of office, informing him of this arrangement.

As you are aware, no dissatisfaction with the course of Mr. Woodson has led to the change; on the contrary, the President approves his course. But it is due to the new governor, Mr. Walker, that he should have for his secretary a gentleman known to him, and in whom he has confidence, and your selection is desired by him.

A copy of the instructions to Mr. Walker, as governor, you will receive with this letter. The duties of that office, when he is not in the Territory, will devolve upon you, and the President desires that you proceed thither without unnecessary delay, and take upon yourself the execution of those duties. These instructions make known the views of the President. They provide also for placing such force at your disposition as the security of the public peace and the enforcement of the law may render necessary.

I am, sir, &c.,

LEWIS CASS.

F. P. STANTON, Esq., *Washington.*

Mr. Stanton to Mr. Cass.

EXECUTIVE OFFICE,
Leocompton, K. T., April 17, 1857.

SIR: I have the honor to inform you that I arrived here night before last, and yesterday morning presented your letter of the 31st

ultimo to Mr. Woodson, late secretary, and immediately entered upon the duties of my office. My first official act was to issue a brief address to the people of Kansas, of which I enclose a printed copy.

It affords me great satisfaction to advise you that, so far as I have yet learned, the people of the Territory are entirely peaceable and quiet, and exhibit every disposition to remain so.

In order to encourage this good disposition, I suggest for your consideration the propriety of directing the United States attorney for this Territory to discontinue all the prosecutions which have been commenced against persons of any party, for offences arising out of the late political disturbances. If the President should agree with me as to the propriety of this policy, and should make a brief proclamation stating the reasons for this act of executive clemency, I think it would have a happy effect in promoting future harmony.

I have the honor to be, very respectfully, your obedient servant,
FRED. P. STANTON.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

To the People of the Territory of Kansas :

FELLOW-CITIZENS: The Hon. Robert J. Walker, present governor of the Territory, accepted his appointment from the President upon condition that he should not be required to leave Washington until the 11th of May next. Circumstances beyond his control rendered it impossible for him to start before that day. He may, therefore, be expected here about the middle of next month, and will then assume the executive authority of the Territory.

During the absence of the governor, by the organic law of the Territory, the whole duties and responsibilities of the executive are devolved upon me by virtue of my commission as secretary. In assuming to exercise the functions of this high office, at this critical juncture in the affairs of the Territory, it is not inappropriate that I should briefly indicate the course which I shall feel it my duty to pursue.

The government of the United States recognizes the authority of the territorial government in all matters which are within the scope of the organic act of Congress and consistent with the Federal Constitution. I hold that there can be no other rightful authority exercised within the limits of Kansas, and I shall proceed to the faithful and impartial execution of the laws of the Territory, by the use of all the means placed in my power and which may be necessary to that end.

The government especially recognises the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however,

that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn.

I need scarcely say that all the power of the territorial executive will be exerted, with entire impartiality, to prevent fraud, to suppress violence, and to secure to every citizen a fair opportunity for the safe and peaceful exercise of his elective privilege. It will be no less the duty than the earnest desire and great pleasure of the governor or acting governor of the Territory to carry out, in good faith, the policy avowed by the President of the United in his recent inaugural address, in which he declares it to be "the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved," and, "that being accomplished, nothing can be fairer than to leave the people of a Territory, free from all foreign interference, to decide their own destiny for themselves, subject only to the Constitution of the United States."

Nothing is wanting but to secure the confidence of the people of all parties in the sincerity of the declared intention of the territorial executive to carry out these principles in good faith, in order to induce the co-operation of all good men in the pending measures for adopting a State constitution. The principles themselves cannot fail to be acceptable to the sober judgment of the people; and I ardently hope, for the sake of the paramount interests involved, that the necessary confidence will not be withheld.

The deplorable events which have marked the history of the Territory up to this have doubtless left their natural results of enmity and heart-burnings among the people, also upon the criminal records of the territorial courts. Indictments have been found against many of those who acted in a military capacity under the authority of the territorial government for acts and excesses alleged to be wholly illegal and unjustifiable. On the other hand, similar prosecutions have been instituted against those who resisted the territorial authorities and who undertook to retaliate for the alleged wrongs committed against them. It is my deliberate opinion that, in order to promote peace and harmony and to secure the future repose of the people, there ought to be a general amnesty in reference to all those acts, on both sides, which grew out of the political contest, and which were not corruptly and feloniously committed for personal gain and to gratify individual malignity. This measure, if adopted at all, ought to be adopted generously, without any consideration of the origin of the difficulty, and without question as to the party which may be responsible for the wrong. It will involve no concession or advantage

to either party, but will be merely an act of clemency, designed to obliterate, as far as possible, from the hearts of the people all memory of the disastrous and lamentable contest which has heretofore desolated this unhappy Territory. If it shall have that effect, though it may pardon some instances of gross wrong and outrage, it will tend to calm the excited passions of the people and to prevent similar occurrences in the future. It will be a measure of conciliation and peace, and will leave the people free from apprehension in the future, so that they can securely devote themselves to those important labors which are destined to make this Territory a great, prosperous, and happy State.

FRED. P. STANTON,
Secretary and Acting Governor.

LECOMPTON, *April 17, 1857.*

Mr. Cass to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, May 6, 1857.

SIR: Your letter of the 17th ult., with its accompaniment, has been received. The intelligence which it conveys in regard to the disposition of the people of Kansas is gratifying. Your suggestion in regard to the expediency of discontinuing certain prosecutions in the Territory is under consideration, and it is probable that the views of the President in regard to the measure will be made known to Governor Walker prior to his departure for the Territory.

I am, sir, &c.,

LEWIS CASS.

FREDERICK P. STANTON, Esq.,
Acting Governor of Kansas, Lecompton.

Mr. Walker to Mr. Cass.

WASHINGTON CITY, *May 9, 1857.*

SIR: Having accepted the office of governor of the Territory of Kansas, I herewith enclose you a copy of my official oath, taken before Chief Justice Taney.

The commission was duly received and, in compliance with your request, I state that I was born in the village and county of Northumberland, in the State of Pennsylvania.

Very respectfully, your obedient servant,

R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State.

Before me, Roger B. Taney, chief justice of the Supreme Court of the United States, personally appeared Robert J. Walker, governor of the Territory of Kansas, who being by me first duly sworn,

deposeth and saith, that he will faithfully discharge the duties of said office and support the Constitution of the United States.

R. J. WALKER.

Sworn and subscribed this 9th May, 1857, Washington.

R. B. TANEY.

True copy from the original.

R. J. WALKER.

Mr. Walker to Mr. Cass.

LECOMPTON, KANSAS TERRITORY,
June 2, 1857.

SIR: Herewith you will find enclosed several copies, in pamphlet form, of my inaugural address, delivered at Lecompton, the seat of government of this Territory, on the 27th day of May last. These are the first corrected copies I have been enabled to obtain, and you will oblige me by placing them on the files of the department in place of the proof-sheets heretofore transmitted. There has been no newspaper issued here for several weeks, and the difficulty and delay attending the procuring of pamphlet copies of my address, correctly printed, have been very great.

My inaugural was extremely well received by the people here, and, so far as I can learn, it seems quite probable that it will be approved by a very large majority of the people of this Territory. On one point the sentiment of the people is almost unanimous: that the constitution must be submitted for ratification or rejection to a vote of the people who shall be *bona fide* residents of the Territory next fall.

The difficulties in this Territory are not yet adjusted, and, without the submission of the constitution to the people, a peaceful settlement is entirely impracticable. There is still a considerable party in Kansas who will resist the adoption of the constitution, however framed, upon the ground so long occupied by them, that the territorial legislature which called this convention was elected by voters from another State, (as they allege) and not by the people of Kansas.

Resistance to the territorial laws is still threatened. Yesterday resolutions were adopted by a public meeting at Lawrence to resist the assessment for a territorial tax. An actual collision, it is feared, will follow. As I was very respectfully received in Lawrence it is my intention immediately to repair there with a view to endeavor by argument and persuasion, without the employment of any military force, unless found indispensably necessary, to induce there quiet submission to the laws. Similar difficulties are threatened at other points in the Territory, where I shall repair in person at the earliest practicable period. The most alarming movement, however, proceeds from the assembling on the ninth of June of the so-called Topeka legislature, with a view to the enactment of an entire code of laws. Of course it will be my endeavor to prevent such a result, as it would lead to inevitable and disastrous collision, and, in fact, renew the civil war in

Kansas. I shall resort to peaceful means in the first instance, but at the same time apprise all parties that any attempt to put such laws in force will be resisted by the government; and that, in the last resort, recourse will be had to the military force subject to my order.

Notwithstanding the menacing condition of affairs at this time, my hope is that no such laws will be passed, or if so, that no serious effort will be made to put them in execution.

This is a region of great beauty and fertility, but up to this period of time the weather has been extremely cold. Indeed, when I contrast the climate with that of St. Louis, through which I passed nearly two weeks since, the thermometer must range many degrees higher there than in this Territory.

On the whole, although there is, as yet, great discontent in the Territory, and serious threats of resisting the territorial laws, yet I think a soothing effect has already been produced upon the people by the positions assumed in my address, and I indulge strong hopes of a peaceful settlement of this question. You may rest satisfied, however, that unless the people had been assured that the constitution should be submitted, as far as our power extended, for ratification or rejection by all the actual *bona fide* resident settlers, a most disastrous civil war here would have been inevitable.

I shall endeavor to keep you advised, from time to time, of the progress of events in this Territory.

Be pleased to present my most respectful acknowledgments to the President and all your colleagues in the cabinet, and receive for yourself, assurances of my distinguished consideration.

R. J. WALKER.

HON. LEWIS CASS,
Secretary of State.

INAUGURAL ADDRESS.

LECOMPTON, KANSAS TERRITORY, *May 27, 1857.*

FELLOW-CITIZENS OF KANSAS: At the earnest request of the President of the United States, I have accepted the position of governor of the Territory of Kansas. The President, with the cordial concurrence of all his cabinet, expressed to me the conviction that the condition of Kansas was fraught with imminent peril to the Union, and asked me to undertake the settlement of that momentous question, which has introduced discord and civil war throughout your borders, and threatens to involve you and our country in the same common ruin. This was a duty thus presented, the performance of which I could not decline consistently with my view of the sacred obligations which every citizen owes to his country.

The mode of adjustment is provided in the act organizing your Territory, namely, by the people of Kansas, who, by a majority of their own votes, must decide this question for themselves in forming their State constitution.

Under our practice, the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the territorial legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the territorial legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery; they acknowledge by their votes and acquiescence. If that legislature was invalid, then are we without law or order in Kansas—without town, city, or county organization—all legal and judicial transactions are void—all titles null, and anarchy reigns throughout our borders.

It is my duty, in seeing that all constitutional laws are fairly executed, to take care, as far as practicable, that this election of delegates to the convention shall be free from fraud and violence, and that they shall be protected in their deliberations.

The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body. I cannot doubt, however, the course they will adopt on this subject. But why incur the hazard of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?

But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The territorial legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it, you resist the authority of the federal government. That legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation.

It is recognized by the present chief magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative under my oath, but to see that all constitutional laws are fully and fairly executed.

I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension—(I trust entirely unfounded)—that they will not be permitted to exercise the right of suffrage. If, by fraud or violence, a majority should not be permitted to vote, there is a remedy, it is hoped, in the wisdom and justice of the convention itself, acting under the obligations of an oath, and a proper responsibility to the tribunal of public opinion. There is a remedy, also, if such facts can be demonstrated, in the refusal of Congress to admit a State into the Union under a constitution imposed by a minority upon a majority by fraud or violence. Indeed, I cannot doubt that the convention, after having framed a State constitution, will submit it for ratification or rejection, by a majority of the then actual *bona fide* resident settlers of Kansas.

With these views, well known to the President and cabinet, and approved by them, I accepted the appointment of governor of Kansas. My instructions from the President, through the Secretary of State, under date of the 30th of March last, sustain "*the regular legislature of the Territory*" in "*assembling a convention to form a constitution,*" and they express the opinion of the President, that "*when 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 against that instrument; 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 election be fairly and justly conducted, the constitution will be, and ought to be rejected by Congress.

There are other important reasons why you should participate in the election of delegates to this convention. Kansas is to become a new State, created out of the public domain, and will designate her boundaries in the fundamental law. To most of the land within her limits the Indian title, unfortunately, is not yet extinguished, and this land is exempt from settlement, to the grievous injury of the people of the State. Having passed many years of my life in a new State, and represented it for a long period in the Senate of the United States, I know the serious incumbrance arising from large bodies of lands within a State to which the Indian title is not extinguished. Upon this subject the convention may act by such just and constitutional provisions as will accelerate the extinguishment of Indian title.

There is, furthermore, the question of railroad grants made by Congress to all the new States but one, (where the routes could not be agreed upon,) and, within a few months past, to the flourishing Territory of Minnesota. This munificent grant of four millions and a half of acres was made to Minnesota, even in advance of her becoming a State, and will enable our sister State of the northwest, under the auspices of her present distinguished executive, speedily to unite her railroad system with ours.

Kansas is undoubtedly entitled to grants similar to those just made to Minnesota, and upon this question the convention may take important action.

These, recollect, are grants by Congress, not to companies, but to States. Now, if Kansas, like the State of Illinois, in granting hereafter these lands to companies to build these roads, should reserve, at least, the seven per cent. of their gross annual receipts, it is quite certain that so soon as these roads are constructed, such will be the large payments into the treasury of our State, that there will be no necessity to impose in Kansas any State tax whatever, especially if the constitution should contain wise provisions against the creation of State debts.

The grant to the State of Illinois for the Illinois central railroad, passed under the wise and patriotic auspices of her distinguished senator, was made before the pernicious system lately exposed in Washington had invaded the halls of Congress, and therefore that State, unlike most others which obtained recent grants, was enabled to make this great reservation for the benefit of the State. This constitutes of itself a conclusive reason why these railroad grants should be reserved in the ordinance accompanying our State constitution, so that our State might have the whole benefit of the grant, instead of large portions being given to agents appointed to obtain these grants by companies substantially in many cases for their own benefit, although in the name of the State.

There is another reason why these railroad grants should thus be reserved in our ordinance.

It is to secure these lands to the State before large bodies of them are engrossed by speculators, especially along the contemplated lines of railroads. In no case should these reservations interfere with the pre-emption rights reserved to settlers, or with school sections.

These grants to States, as is proved by the official documents, have greatly augmented the proceeds of the sales of the public lands, increasing their value, accelerating their sale and settlement, and bringing enhanced prices to the government, whilst greatly benefiting the lands of the settler by furnishing him new markets and diminished cost of transportation. On this subject, Mr. Buchanan, always the friend of the new States, in his recent inaugural, uses the following language:

“No nation in the tide of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, whilst it may be wise to grant portions of them for the improvement of the remainder, yet we should never forget that it is our cardinal policy to reserve the lands as much as may be for actual settlers, and this at moderate prices. We shall

thus not only best promote the prosperity of the new States by furnishing them a hardy and independent race of honest and industrious citizens, but shall secure homes for our children and our children's children, as well as those exiled from foreign shores who may seek in this country to improve their condition, and enjoy the blessings of civil and religious liberty."

Our American railroads, now exceeding twenty-four thousand miles completed, have greatly advanced the power, prosperity, and progress of the country, whilst linking it together in bonds of ever increasing commerce and intercourse, and tending, by these results, to soften or extinguish sectional passions and prejudice, and thus perpetuate the union of the States. This system, it is clearly the interest of the whole country, shall progress until the States west of the Mississippi shall be intersected, like those east of that river, by a net-work of railroads, until the whole, at various points, shall reach the shores of the Pacific. The policy of such grants by Congress is now clearly established; and whatever doubts may have prevailed in the minds of a few persons as to the constitutionality of such grants, when based only upon the transfer of a portion of the public domain, in the language of the inaugural of the President, "*for the improvement of the remainder,*" yet when they are made, as now proposed, in the ordinance accompanying our constitution, in consideration of our relinquishing the right to tax the public lands, such grants become, in fact, sales for ample equivalents, and their constitutionality is placed beyond all doubt or controversy. For this reason, also, and in order that these grants may be made for ample equivalents, and upon grounds of clear constitutional authority, it is most wise that they should be included in our ordinance, and take effect by compact when the State is admitted into the Union. If my will could have prevailed as regards the public lands, as indicated in my public career, and especially in the bill presented by me, as chairman of the Committee of Public Lands, to the Senate of the United States, which passed that body, but failed in the House, I would authorize no sales of these lands except for settlement and cultivation, reserving not merely a pre-emption, but a homestead of a quarter section of land in favor of every actual settler, whether coming from other States or emigrating from Europe. Great and populous States would thus rapidly be added to the confederacy, until we should soon have one unbroken line of States, from the Atlantic to the Pacific, giving immense additional power and security to the Union, and facilitating intercourse between all its parts. This would be alike beneficial to the old and to the new States. To the working men of the old States, as well as of the new, it would be of incalculable advantage, not merely by affording them a home in the west, but by maintaining the wages of labor by enabling the working classes to emigrate and become cultivators of the soil, when the rewards of daily toil should sink below a fair remuneration. Every new State, besides, adds to the customers of the old States, consuming their manufactures, employing their merchants, giving business to their vessels and canals, their railroads and cities, and a powerful impulse to their industry and prosperity. Indeed, it is the growth of the mighty west which

has added, more than all other causes combined, to the power and prosperity of the whole country, whilst at the same time, through the channels of business and commerce, it has been building up immense cities in the eastern Atlantic and middle States, and replenishing the federal treasury with large payments from the settlers upon the public lands, rendered of real value only by their labor; and thus, from increased exports, bringing back augmented imports, and soon largely increasing the revenue of the government from that source also.

Without asking anything new from Congress, if Kansas can receive, on coming into the Union, all the usual grants, and use them judiciously, she can not only speedily cover herself with a net-work of railroads, but, by devoting all the rest to purposes of education, she would soon have a complete system of common schools, with normal schools, free academies, and a great university, in all of which tuition should be free to all our people. In that university the mechanic arts, with model workshops, and all the sciences should be taught, and especially agriculture in connexion with a model farm.

Although you ask nothing more in your ordinance than has been already granted to the other new States, yet, in view of the sacrifice of life and property incurred by the people of Kansas in establishing here the great principles of State and popular sovereignty, and thus perpetuating the Union, Congress doubtless will regard with indulgent favor the new State of Kansas, and will welcome her into the Union with joyful congratulations and a most liberal policy as to the public domain.

The full benefit of that great measure, the graduation and reduction of the price of the public lands in favor only of settlers and cultivators, so often urged by me in the Senate and in the Treasury Department, and finally adopted by Congress, should also be secured in our ordinance. Having witnessed in new States the deep injury inflicted upon them by large bodies of their most fertile land being monopolized by speculators, I suggest, in accordance with the public policy ever advocated by me, that our entire land tax, under the Constitution, for the next twenty years should be confined exclusively to unoccupied land—whether owned by residents or non-residents—as one of the best means of guarding against a monopoly of our choice lands by speculators. I desire, in fact, to see our convention exercise the whole constitutional power of a State to guard our rights and interests, and especially to protect the settlers and cultivators against the monopoly of our public domain by speculators.

As regards the school lands of the new States, the following views will be found in my reports of the 8th of December, 1847, and 9th of December, 1848, as Secretary of the Treasury of the United States:

“The recommendation contained in my last report for the establishment of ports of entry in Oregon, and the extension there of our revenue laws, is again respectfully presented to the consideration of Congress, together with donations of farms to settlers and emigrants, and the grant of a school section in the centre of every quarter of a township, which would bring the school-house within a point not

exceeding a mile and a half in distance from the most remote inhabitant of such quarter township."

And again :

" My last report recommended the grant of one section of land for schools in every quarter township in Oregon. * * *

* * * Congress, to some extent, adopted this recommendation by granting two school sections in each township, instead of one, for education in Oregon ; but it is respectfully suggested that even thus extended, the grant is still inadequate in amount, whilst the location is inconvenient, and too remote for a school which all can attend. This subject is again presented to the attention of Congress, with the recommendation that it shall be extended to California and New Mexico, and also to all the other new States and Territories containing the public domain."

Acting upon the first of these recommendations, but not carrying them fully into effect, Congress doubled the school section grants—an advance upon the former system. But in my judgment, the benefits intended will never be fully realized until four school sections, instead of two, are granted in every township locating the school section in the centre of every quarter township ; thus, by only doubling the school sections, causing every section of the public domain in the new States to adjoin a school section, which would add immensely to the value of the public lands, whilst, at the same time, affording an adequate fund not only for the establishment of common schools in every township, but of high schools, normal schools and free academies, which, together with the five per cent. fund and university grant before referred to, would place Kansas, in a few years, in point of science and education, in the front rank of the States of the American Union and of the world. This is a subject always regarded by me with intense interest, inasmuch as my highest hope of the perpetuity of our Union and of the continued success of self-government, is based upon the progressive education and enlightenment of the people, enabling them fully to comprehend their own true interests, the incalculable advantages of our Union, the exemption from the power of demagogues, the control of sectional passions and prejudice, the progress of the arts and sciences, and the accumulation of knowledge, which is every day more and more becoming real power, and which will advance so much the great interests of our whole country.

These noble grants for schools and education in some of the new States, have not produced all the advantages designed, for want of adequate checks and guards against improvident legislation ; but I trust that the convention by a distinct constitutional provision, will surround these lands with such guarantees, legislative, executive, judicial, and popular, as to require the combined action of the whole under the authority of the legislature in the administration of a fund so sacred.

It will be observed that these school sections and the five per cent. fund, or their equivalent, have always been made good to the new States by Congress, whether the lands were sold in trust for Indians, or otherwise.

Upon looking at the location of Kansas, equi-distant from north to

south, and from the Atlantic to the Pacific, I find, that within reasonable boundaries, she would be the central State of the American Union. On the north lies the Nebraska Territory, soon to become a State; on the south the great and fertile southwestern Indian territory, soon, I hope, to become a State also. To the boundary of Kansas run nearly all the railroads of Missouri, whilst westward, northward, and southward, these routes continued through Kansas would connect her directly with Puget's Sound, the mouth of the Oregon river, and San Francisco. The southern boundary of Kansas is but five hundred miles from the Gulf of Mexico, and the same railroad through the great southwestern Indian territory and Texas would connect her with New Orleans, with Galveston, with all the roads of Arkansas, and through Texas to San Francisco and other points on the Pacific. Northward and eastward our lines would connect with the roads of Iowa, Illinois, Wisconsin, Nebraska, Minnesota, and the lakes of the north.

It is the people of Kansas who, in forming their State constitution, are to declare the terms on which they propose to enter the Union. Congress cannot compel the people of a Territory to enter the Union as a State, or change, without their consent, the constitution framed by the people. Congress, it is true, may, for constitutional reasons, refuse admission, but the State alone, in forming her constitution, can prescribe the terms on which she will enter the Union. This power of the people of a Territory in forming a State constitution is one of vital importance, especially in the States carved out of the public domain. Nearly all the lands of Kansas are public lands, and most of them are occupied by Indian tribes. These lands are the property of the federal government, but their right is exclusively that of a proprietor, carrying with it no political power.

Although the States cannot tax the constitutional functions of the federal government, they may assess its real estate within the limits of the State. Thus, although a State cannot tax the federal mint or custom-houses, yet it may tax the ground on which they stand, unless exempted by State authority. Such is the well settled doctrine of the Supreme Court of the United States. In 1838, Judge McLean, of the Supreme Court of the United States, made the following decision :

“It is true the United States held the proprietary right under the act of cession, and also the right of sovereignty until the State government was established; but the mere proprietary right, if it exist, gives no right of sovereignty. The United States may own land within a State, but political jurisdiction does not follow this ownership. Where jurisdiction is necessary, as for forts and arsenals, a cession of it is obtained from the State. Even the lands of the United States within the State are exempted from taxation by compact.”

By the recent decision of the Supreme Court of the United States, so justly favorable to the rights and interest of the new States, especially those formed out of the territory acquired, like Kansas, since the adoption of the Constitution, it is clear that the ownership of the public lands of such Territory is viewed by the court exclusively as a proprietary right, carrying with it no political power or right of eminent domain, and affecting in no way the exercise of any of the

sovereign attributes of State authority. When Kansas becomes a State, with all the attributes of State sovereignty coextensive with her limits, among these must be the taxing power, which is an inherent element of State authority. I do not dispute the title of the government to the public lands of Kansas, but I do say that this right is that of an owner only; and that when Kansas becomes a State the public lands are subject to taxation by State authority, like those of any individual proprietor, unless that power is relinquished by the State in the ordinance, assuming the form of a compact, by which the State is admitted into the Union.

This relinquishment of the taxing power as to the public lands, so important to the general government, and which has heretofore been exacted by Congress on their own terms from all the new States, is deeply injurious to the State, depriving her almost entirely of the principal recourse of a new State by taxation to support her government. Now that this question is conclusively settled by the Supreme Court of the United States, as a consequence of their recent decision, it is proper for the State, in making this relinquishment of the right to tax the public lands, to annex the conditions on which she consents to such exemption. This should be done in the constitution, upon terms just to Kansas and to the federal government.

Should Kansas relinquish the right of taxing the public lands for equivalents, she should, in my judgment, although sustained by irresistible conclusions from the decision of the Supreme Court of the United States and sound constitutional views of State rights, place the question in its strongest form, by asking nothing more than has been granted to the other new States, including the grants for education, railroads, &c. She will thus give the highest proof that she is not governed by sordid views, and that she means to exact nothing from Congress that is unjust or unusual.

I cannot too earnestly impress upon you the necessity of removing the slavery agitation from the halls of Congress and presidential conflicts. It is conceded that Congress has no power to interfere with slavery in the States where it exists; and if it can now be established, as is clearly the doctrine of the Constitution, that Congress has no authority to interfere with the people of a Territory on this subject in forming a State constitution, the question must be removed from congressional and presidential elections.

This is the principle affirmed by Congress in the act organizing this Territory, ratified by the people of the United States in the recent election, and maintained by the late decision of the Supreme Court of the United States. If this principle can be carried into successful operation in Kansas—that her people shall determine what shall be her social institutions—the slavery question must be withdrawn from the halls of Congress and from our presidential conflicts, and the safety of the Union be placed beyond all peril; whereas, if the principle should be defeated here, the slavery agitation must be renewed in all elections throughout the country with increasing bitterness, until it shall eventually overthrow the government.

It is this agitation which, to European powers, presents the only hope of subverting our free institutions, and, as a consequence, de-

stroying the principle of self-government throughout the world. It is this hope that has already inflicted deep injury upon our country, exciting monarchical or despotic interference with our domestic as well as foreign affairs, and inducing their interposition, not only in our elections, but in diplomatic intercourse, to arrest our progress, to limit our influence and power, depriving us of great advantages in peaceful territorial expansion, as well as in trade with the nations of the world.

Indeed, when I reflect upon the hostile position of the European press during the recent election, and their exulting predictions of the dissolution of our Union as a consequence of the triumph of a sectional candidate, I cannot doubt that the peaceful and permanent establishment of these principles, now being subjected to their final test in Kansas, will terminate European opposition to all those measures which must so much increase our commerce, furnish new markets for our products and fabrics, and, by conservative peaceful progress, carry our flag and the empire of our Constitution into new and adjacent regions indispensable as a part of the Union to our welfare and security, adding coffee, sugar, and other articles to our staple exports, whilst greatly reducing their price to the consumer.

Nor is it only in our foreign intercourse that peace will be preserved and our prosperity advanced by the accepted fact of the permanence of our government, based upon the peaceful settlement of this question in Kansas, but at home the same sentiment will awaken renewed confidence in the stability of our institutions, give a new impulse to all our industry, and carry us onward in a career of progress and prosperity exceeding even our most sanguine expectations; a new movement of European capital will flow in upon us for permanent investment, and a new exodus of the European masses, aided by the pre-emption principle, carry westward the advancing column of American States in one unbroken phalanx to the Pacific.

And let me ask you, what possible good has been accomplished by agitating in Congress and in presidential conflicts the slavery question? Has it emancipated a single slave, or improved their condition? Has it made a single State free, where slavery otherwise would have existed? Has it accelerated the disappearance of slavery from the more northern of the slaveholding States, or accomplished any practical good whatever? No, my fellow-citizens, nothing but unmitigated evil has already ensued, with disasters still more fearful impending for the future, as a consequence of this agitation.

There is a law more powerful than the legislation of man, more potent than passion or prejudice, that must ultimately determine the location of slavery in this country; it is the isothermal line, it is the law of the thermometer, of latitude or altitude, regulating climate, labor and productions, and, as a consequence, profit and loss. Thus, even upon the mountain heights of the tropics slavery can no more exist than in northern latitudes, because it is unprofitable, being unsuited to the constitution of that sable race transplanted here from the equatorial heats of Africa. Why is it that in the Union slavery recedes from the north and progresses south? It is this same great climatic law now operating for or against slavery in Kansas. If, on

the elevated plains of Kansas, stretching to the base of our American Alps—the Rocky mountains—and including their eastern crest, crowned with perpetual snow, from which sweep over her open prairies those chilling blasts, reducing the average range of the thermometer here to a temperature nearly as low as that of New England, should render slavery unprofitable here, because unsuited to the tropical constitution of the negro race, the law above referred to must ultimately determine that question here, and can no more be controlled by the legislation of man than any other moral or physical law of the Almighty. Especially must this law operate with irresistible force in this country, where the number of slaves is limited, and cannot be increased by importation—where many millions of acres of sugar and cotton lands are still uncultivated, and from the ever augmenting demand, exceeding the supply, the price of those great staples has nearly doubled, demanding vastly more slave labor for their production.

If, from the operation of these causes, slavery should not exist here, I trust it by no means follows that Kansas should become a State controlled by the treason and fanaticism of abolition. She has, in any event, certain constitutional duties to perform to her sister States, and especially to her immediate neighbor, the slaveholding State of Missouri. Through that great State, by rivers and railroads, must flow, to a great extent, our trade and intercourse, our imports and exports. Our entire eastern front is upon her border; from Missouri come a great number of her citizens; even the farms of the two States are cut by the line of State boundary—part in Kansas, part in Missouri; her citizens meet us in daily intercourse; and that Kansas should become hostile to Missouri, an asylum for her fugitive slaves, or a propagandist of abolition treason, would be alike inexpedient and unjust, and fatal to the continuance of the American Union. In any event, then, I trust that the constitution of Kansas will contain such clauses as will forever secure to the State of Missouri the faithful performance of all constitutional guarantees, not only by federal, but by State authority, and the supremacy within our limits of the authority of the Supreme Court of the United States on all constitutional questions be firmly established.

Upon the south, Kansas is bounded by the great southwestern Indian territory. This is one of the most salubrious and fertile portions of this continent. It is a great cotton growing region, admirably adapted by soil and climate for the products of the south, embracing the valleys of the Arkansas and Red rivers, adjoining Texas on the south and west, and Arkansas on the east, and it ought speedily to become a State of the American Union. The Indian treaties will constitute no obstacle any more than precisely similar treaties did in Kansas; for their lands, valueless to them, now for sale, but which, sold with their consent and for their benefit, like the Indian land of Kansas, would make them a most wealthy and prosperous people, and their consent on these terms would be most cheerfully given. This territory contains double the area of the State of Indiana, and if necessary an adequate portion of the western and more elevated part could be set apart exclusively for these tribes, and the eastern and larger portion be formed into a State, and its lands sold for the benefit

of these tribes, (like the Indian lands of Kansas,) thus greatly promoting all their interests. To the eastern boundary of this region on the State of Arkansas run the railroads of that State; to her southern limits come the great railroads from Louisiana and Texas, from New Orleans and Galveston, which will ultimately be joined by railroads from Kansas, leading through this Indian territory, connecting Kansas with New Orleans, the Gulf of Mexico, and with the southern Pacific railroad, leading through Texas to San Francisco.

It is essential to the true interests, not only of Kansas, but of Louisiana, Texas and Arkansas, Iowa and Missouri, and the whole region west of the Mississippi, that this coterminous southwestern Indian territory should speedily become a State, not only to supply us with cotton, and receive our products in return, but as occupying the area over which that portion of our railroads should run which connect us with New Orleans and Galveston, and by the southern route with the Pacific. From her central position, through or connected with Kansas, must run the central, northern, and southern routes to the Pacific, and with the latter, as well as with the Gulf, the connexion can only be secured by this southwestern territory becoming a State; and to this Kansas should direct her earnest attention as essential to her prosperity.

Our country and the world are regarding with profound interest the struggle now impending in Kansas. Whether we are competent to self-government; whether we can decide this controversy peacefully for ourselves by our own votes, without fraud or violence; whether the great principles of self-government and State sovereignty can be carried here into successful operation, are the questions now to be determined; and upon the plains of Kansas may now be fought the last great and decisive battle, involving the fate of the Union, of State sovereignty, of self-government, and the liberties of the world. If, my fellow-citizens, you could, even for a brief period, soften or extinguish sectional passions or prejudice, and lift yourselves to the full realization of the momentous issues entrusted to your decision, you would feel that no greater responsibility was ever devolved on any people. It is not merely shall slavery exist in or disappear from Kansas, but shall the great principles of self-government and State sovereignty be maintained or subverted. State sovereignty is mainly a practical principle in so far as it is illustrated by the great sovereign right of the majority of the people in forming a State government to adopt their own social institutions, and this principle is disregarded whenever such decision is subverted by Congress, or overthrown by external intrusion, or by domestic fraud or violence. All those who oppose this principle are the enemies of States rights, of self-government, of the Constitution and the Union. Do you love slavery so much, or hate it so intensely, that you would endeavor to establish or exclude it by fraud or violence against the will of the majority of the people? What is Kansas, with or without slavery, if she should destroy the rights and Union of the States? Where would be her schools, her free academies, her colleges and university, her towns and cities, her railroads, farms, and villages, without the Union, and the principles of self-government? Where would be her peace and prosperity, and

what the value of her lands and property? Who can decide this question for Kansas, if not the people themselves? and if they cannot, nothing but the sword can become the arbiter.

On the one hand, if you can and will decide peacefully this question yourselves, I see for Kansas an immediate career of power, progress, and prosperity, unsurpassed in the history of the world. I see the peaceful establishment of our State constitution, its ratification by the people, and our immediate admission into the Union; the rapid extinguishment of Indian title, and the occupancy of those lands by settlers and cultivators; the diffusion of universal education; pre-emptions for the actual settlers; the State rapidly intersected by a net-work of railroads; our churches, schools, colleges, and university, carrying westward the progress of law, religion, liberty, and civilization; our towns, cities, and villages, prosperous and progressing; our farms teeming with abundant products, and greatly appreciated in value; and peace, happiness, and prosperity smiling throughout our borders. With proper clauses in our constitution, and the peaceful arbitrament of this question, Kansas may become the model State of the American Union. She may bring down upon us from north to south, from east to west, the praises and blessings of every patriotic American, and of every friend of self-government throughout the world; she may record her name on the proudest page of the history of our country and of the world, and as the youngest and last born child of the American Union, all will hail and regard her with respect and affection.

On the other hand, if you cannot thus peacefully decide this question, fraud, violence, and injustice will reign supreme throughout our boarders, and we will have achieved the undying infamy of having destroyed the liberty of our country, and of the world. We will become a bye-word of reproach and obloquy, and all history will record the fact that Kansas was the grave of the American Union. Never was so momentous a question submitted to the decision of any people, and we cannot avoid the alternatives now placed before us of glory or of shame.

May that overruling Providence who brought our forefathers in safety to Jamestown and Plymouth; who watched over our colonial pupilage; who convened our ancestors in harmonious councils on the birthday of American Independence; who gave us Washington, and carried us successfully through the struggles and perils of the Revolution; who assembled, in 1787, that noble band of patriots and statesmen from north and south who framed the federal Constitution; who has augmented our numbers from three millions to thirty millions; has carried us from the eastern slope of the Alleghanies, through the great valleys of the Ohio, Mississippi, and Missouri, and now salutes our standard on the shores of the Pacific, rouse in our hearts a love of the whole Union, and a patriotic devotion to the whole country; may it extinguish or control all sectional passions and prejudice, and enable us to conduct to a successful conclusion the great experiment of self-government now being made within our boundaries.

Is it not infinitely better that slavery should be abolished or established in Kansas, rather than that we should become slaves and

not permitted to govern ourselves? Is the absence or existence of slavery in Kansas paramount to the great questions of State sovereignty, of self-government, and of the Union? Is the sable African alone entitled to your sympathy and consideration, even if he were happier as a freeman than as a slave, either here, or in St. Domingo, or the British West Indies, or Spanish American, where the emancipated slave has receded to barbarism, and approaches the lowest point in the descending scale of moral, physical, and intellectual degradation? Have our white brethren of the great American and European race no claims upon our attention? Have they no rights or interests entitled to regard and protection? Shall the destiny of the African in Kansas exclude all considerations connected with our own happiness and prosperity? And is it for the handful of that race now in Kansas, or that may be hereafter introduced, that we should subvert the Union and the great principles of self-government and State sovereignty, and imbrue our hands in the blood of our countrymen? Important as this African question may be in Kansas, and which it is your solemn right to determine, it sinks into insignificance compared with the perpetuity of the Union and the final successful establishment of the principles of State sovereignty and free government. If patriotism, if devotion to the Constitution and love of the Union, should not induce the minority to yield to the majority on this question, let them reflect that in no event can the minority successfully determine this question permanently, and that in no contingency will Congress admit Kansas as a slave or free State, unless a majority of the people of Kansas shall first have fairly and freely decided this question for themselves by a direct vote on the adoption of the constitution, excluding all fraud or violence. The minority, in resisting the will of the majority, may involve Kansas again in civil war; they may bring upon her reproach and obloquy, and destroy her progress and prosperity; they may keep her for years out of the Union, and, in the whirlwind of agitation, sweep away the government itself. But Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, fully, freely, and fairly made, by a majority of her people, in voting for or against the adoption of her State constitution. Why, then, should this just, peaceful, and constitutional mode of settlement meet with opposition from any quarter? Is Kansas willing to destroy her own hopes of prosperity merely that she may afford political capital to any party, and perpetuate the agitation of slavery throughout the Union? Is she to become a mere theme for agitators in other States, the theatre on which they shall perform the bloody drama of treason and disunion? Does she want to see the solemn acts of Congress, the decision of the people of the Union in the recent election, the legislative, executive, and judicial authorities of the country all overthrown, and revolution and civil war inaugurated throughout her limits? Does she want to be "bleeding Kansas" for the benefit of political agitators within or out of her limits, or does she prefer the peaceful and quiet arbitrament of this question for herself? What benefit will the great body of the people of Kansas derive from these agitations? They may, for a brief period, give consequence and power to political leaders and agitators;

but it is at the expense of the happiness and welfare of the great body of the people of this Territory.

Those who oppose slavery in Kansas do not base their opposition upon any philanthropic principles or any sympathy for the African race. For in their so-called constitution, framed at Topeka, they deem that entire race so inferior and degraded as to exclude them all forever from Kansas, whether they be bond or free, thus depriving them of all rights here, and denying even that they can be citizens of the United States; for, if they are citizens, they could not constitutionally be exiled or excluded from Kansas. Yet such a clause, inserted in the Topeka constitution, was submitted by that convention for the vote of the people, and ratified here by an overwhelming majority of the anti-slavery party. This party here, therefore, has, in the most positive manner, affirmed the constitutionality of that portion of the recent decision of the Supreme Court of the United States declaring that Africans are not citizens of the United States.

This is the more important, inasmuch as this Topeka constitution was ratified, with this clause inserted, by the entire republican party in Congress, thus distinctly affirming the recent decision of the Supreme Court of the Union that Africans are not citizens of the United States; for, if citizens, they may be elected to all offices, State and national, including the presidency itself; they must be placed upon a basis of perfect equality with the whites, serve with them in the militia, on the bench, the legislature, the jury box, vote in all elections, meet us in social intercourse, and intermarry freely with the whites. This doctrine of the perfect equality of the white with the black in all respects whatsoever, social and political, clearly follows from the position that Africans are citizens of the United States. Nor is the Supreme Court of the Union less clearly vindicated by the position now assumed here by the published creed of this party, that the people of Kansas, in forming their State constitution, (and not Congress,) must decide this question of slavery for themselves. Having thus sustained the court on both the controverted points decided by that tribunal, it is hoped they will not approve the anarchical and revolutionary proceedings in other States, expunging the Supreme Court from our system by depriving it of the great power for which it was created, of expounding the Constitution. If that be done, we can have, in fact, no unity of government or fundamental law, but just as many ever-varying constitutions as passion, prejudice, and local interests may, from time to time, prescribe in the thirty-one States of the Union.

I have endeavored heretofore faintly to foreshadow the wonderful prosperity which would follow at once in Kansas the peaceful and final settlement of this question. But if it should be in the power of agitators to prevent such a result, nothing but ruin will pervade our territory. Confidence will expire, and law and order will be subverted. Anarchy and civil war will be re-inaugurated among us. All property will greatly depreciate in value. Even the best farms will become almost worthless. Our towns and cities will sink into decay. Emigration into our Territory will cease. A mournful train of returning settlers, with ruined hopes and blasted fortunes, will leave our

borders. All who have purchased property at present prices will be sacrificed, and Kansas will be marked by universal ruin and desolation.

Nor will the mischief be arrested here. It will extend into every other State. Despots will exult over the failure here of the great principles of self-government and the approaching downfall of our confederacy. The pillars of the Union will rock upon their base, and we may close the next presidential conflict amid the scattered fragments of the constitution of our once happy and united people. The banner of the stars and stripes, the emblem of our country's glory, will be rent by contending factions. We shall no longer have a country. The friends of human liberty in other realms will shrink despairing from the conflict. Despotic power will resume its sway throughout the world, and man will have tried in vain the last experiment of self-government. The architects of our country's ruin, the assassins of her peace and prosperity, will share the same common ruin of all our race. They will meet, whilst living, the bitter curses of a ruined people, whilst history will record as their only epitaph: *These were the destroyers of the American Union, of the liberties of their country and of the world.*

But I do not despair of the republic. My hope is in the patriotism and intelligence of the people; in their love of country, of liberty, and of the Union. Especially is my confidence unbounded in the hardy pioneers and settlers of the west. It was such settlers of a new State devoted to the Constitution and the Union, whom I long represented in the Senate of the United States, and whose rights and interests it was my pride and pleasure there, as well as in the Treasury Department, to protect and advocate. It was men like these whose rifles drove back the invader from the plains of Orleans, and planted the stars and stripes upon the victorious fields of Mexico. These are the men whom gold cannot corrupt, nor foes intimidate. From their towns and villages, from their farms and cottages, spread over the beautiful prairies of Kansas, they will come forward now in defence of the Constitution and the Union. These are the glorious legacy they received from our fathers, and they will transmit to their children the priceless heritage. Before the peaceful power of their suffrage this dangerous sectional agitation will disappear, and peace and prosperity once more reign throughout our borders. In the hearts of this noble band of patriotic settlers the love of their country and of the Union is inextinguishable. It leaves them not in death, but follows them into that higher realm, where, with Washington and Franklin and their noble compatriots, they look down with undying affection upon their country, and offer up their fervent prayers that the Union and the Constitution may be perpetual. For, recollect, my fellow-citizens, that it is the Constitution that makes the Union; and unless that immortal instrument, bearing the name of the father of his country shall be maintained entire in all its wise provisions and sacred guarantees, our free institutions must perish.

My reliance also is unshaken upon the same overruling Providence who has carried us triumphantly through so many perils and conflicts; who has lifted us to a height of power and prosperity unexampled in

history, and, if we shall maintain the Constitution and the Union, points us to a future more glorious and sublime than mind can conceive or pen describe. The march of our country's destiny, like that of His first chosen people, is marked by the foot-prints of the steps of God. The Constitution and the Union are "the cloud by day and the pillar of fire by night," which will carry us safely, under His guidance, through the wilderness and bitter waters, into the promised and ever-extending fields of our country's glory. It is His hand which beckons us onward in the pathway of peaceful progress and expansion, of power and renown, until our continent, in the distant future, shall be covered by the folds of the American banner; and instructed by our example, all the nations of the world, through many trials and sacrifices, shall establish the great principles of our constitutional confederacy of free and sovereign States.

R. J. WALKER.

Mr. Walker to Mr. Cass.

LEAVENWORTH, KANSAS TERRITORY,

July 15, 1857.

SIR: I have been incessantly occupied since my letter to you of the 2d of June last, partly by my official business, and partly by traveling throughout the Territory and addressing the people.

On the 6th of June last, by invitation of a number of the citizens of Topeka favorable to my views as set forth in my inaugural, I addressed them on the affairs of the Territory. A very large crowd was assembled, and composed, as I subsequently ascertained, of a large majority of citizens favorable to the so-called Topeka State constitution. I have not with me here any printed copy of my address, which was interrupted by many questions from my political opponents. This was a course not anticipated by me; but I endeavored to answer these questions in a satisfactory manner, and the result was favorable to the cause of law and order in the Territory. The 9th of June being the day assigned for the meeting of the so-called Topeka State legislature at Topeka, I was induced by a most earnest request on the part of a large number of the most respectable citizens to remain there, with a view, as far as practicable, to prevent the serious consequences which might arise by conflicting legislation on the part of the so-called Topeka State legislature. I did remain, but was not present at any of their meetings. On the 9th of June their mass convention of the people was assembled at Topeka, for the purpose of instructing their State legislature in regard to the discharge of their duties. This was a most novel proceeding, but not more singular than many of the extraordinary events which have occurred in Kansas. This mass convention was somewhat divided in opinion as to the proper policy to be pursued by the Topeka legislature. From a very early hour in the morning of the 9th of June, down to about 8 o'clock at night, this mass convention was addressed in a most earnest manner by the orators of their party, in favor of a course to be pursued by their legis-

lature, more or less violent. The main difference in opinion was this : whether the legislature should refrain from general legislation, and only pass such acts not conflicting with the territorial government as would enable them to ascertain the number of inhabitants of the Territory, and induce them to petition Congress for the admission of Kansas as a State under the so-called Topeka constitution ; or whether they should fully organize the State government and pass a complete code of laws on all subjects, which code, it is said, had been prepared by various committees, and was ready for legislative action ; on the one side advocating what they professed to regard as nothing more than a petition to Congress to admit them as a state under the Topeka State constitution ; and on the other side, in favor of what was regarded by me as open rebellion, were many violent men, headed by the principal delegates from the town of Lawrence, which is the great seat of all the agitation that has disturbed the peace of this Territory.

Before the close of this debate I was strongly urged, even by a considerable number of this mass convention, to proceed to the courthouse and address them on the subject. I did not conceive it, however, proper on my part to pursue this course, but I was much surprised when, after their own orators had concluded their several addresses, this mass convention proceeded to my lodgings, in the town of Topeka and, by repeated calls, insisted on an address from me. I finally complied with their request, and addressed them for more than an hour, endeavoring to impress them with the solemnity of the occasion, advising them of the ruinous consequences of their proceedings, urging them to abandon the whole Topeka movement as illegal and unjustifiable, and recommending them to seek redress for all the grievances of which they complained in the peaceful manner designated in my inaugural address. My audience was most attentive. I was interrupted by no questions, and by no marks either of dissent or applause. From the conduct of the crowd on this occasion I drew the most favorable conclusions, and was not entirely mistaken as to the results.

Although this mass convention did not adopt fully my advice to abandon the whole Topeka movement, yet they did vote down by a large majority the resolutions prepared by the more violent of their own party in favor of a complete State organization and the adoption of a code of State laws, and contented themselves with adopting resolutions in favor of preventing a lapse of their State government, and enabling them, through the instrumentality of a State census and various agents, to have a petition signed by the people of Kansas in favor of their admission as a State under their so-called Topeka State constitution. Their so-called legislature has, I understand, substantially pursued this last and more moderate course, although I have never been able to obtain a complete copy of their so-called laws.

The result of the whole discussion at Topeka was regarded by the friends of law and order as highly favorable to their cause, and as the commencement of a great movement essential to success, viz: the separation of the free State democrats from the republicans, who had to some extent heretofore co-operated under the name of the free State party. It was, however, universally admitted that, but for the position

assumed in my inaugural address, and emphatically repeated at Topeka, that the people of Kansas, so far as my power extended, should be permitted, by a full vote of the actual residents of Kansas, to decide upon the great question of the adoption or rejection of the State constitution to be prepared by the constitutional convention which should assemble at Lecompton in September next, that the more violent course would have prevailed, and the Territory have been immediately involved in a general and sanguinary civil war, postponing, for the present at least, if not indefinitely, any pacific settlement of these momentous questions.

On the 10th of June, by invitation of the citizens, I addressed a very large audience at the Big Springs, in Kansas, urging substantially the same views contained in my inaugural and my several speeches at Topeka. Our friends considered that the result there was highly favorable to the cause of the Constitution and of the Union.

Early in July I proceeded to Paoli, a town in Kansas, situate fifty miles south of Lecompton, where the land sales were then progressing. A very large crowd, not less than one thousand, assembled to hear my address, when the views heretofore expressed by me, substantially, were again repeated. I was answered by one of their favorite orators, of the name of Foster, who, among other things, accused the President of the United States of great inconsistency in opposing the Topeka movement, when it was well known that he had advocated the admission of Michigan as a State in 1836, under what he (Foster) claimed to be proceedings similar to those at Topeka. Most fortunately I had participated, as a senator of the United States, in the admission of Michigan, and was enabled to explain the matter satisfactorily to the people. I showed them that, in the case of Michigan, the territorial legislature were clothed by Congress with no authority to assemble a constitutional convention and adopt a State constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the territorial legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress. I urged them, therefore, to abandon the Topeka movement as entirely illegal; that they were pursuing a course in opposition to the laws, which never could lead to any successful result, and urged them to unite in voting for or against the adoption of such a constitution as might be submitted for their consideration by the constitutional convention which would assemble in September next on the call of the territorial legislature. I endeavored to convince them that the so-called republican party of Kansas, and their associates in the United States, had endeavored, and still desired, as set forth in their platform, to deprive the people of Kansas of the right to adopt their own social institutions, and had referred this question to Congress, where the people of the Territory would have no vote whatever; and continued my efforts on this ground, in connexion with other topics, to separate the free State democrats from any alliance with the republicans. By "free State democrats" I mean those who were favorable last

year to the election of Mr. Buchanan, but who desired to bring Kansas as a free State into the Union. Our friends were greatly pleased with the result of the proceedings at Paoli. In all my speeches I have refrained from expressing any opinion as to whether Kansas should be a slave or free State.

On my return to Lecompton I was much engaged for several days in transacting the public business, which had accumulated during my absence.

In the meantime the convention of the national democratic party of Kansas was assembled at Lecompton for the purpose of nominating a candidate for territorial delegate to Congress, to be supported at the election in October. This convention met in pursuance of a call made by the central committee of the democratic party of Kansas which met at Lecompton in January last. The convention was attended by forty-three out of sixty members. It was composed of a large majority of the leaders of the pro-slavery party of this Territory, the remainder being free State democrats. They adopted with great unanimity the Cincinnati platform, discarded all sectional differences, invited a union and co-operation of northern and southern democrats, and nominated Governor Ransom, a distinguished free State democrat, lately from Michigan, and who fully concurred in the views expressed in my inaugural address, as the territorial delegate to Congress. A resolution was offered by the pro-slavery delegate, instructing the nominee of the party for Congress to support there the adoption of the State constitution which might be framed by the constitutional convention which should assemble in September next, *whether the same had been submitted for ratification by the vote of the people or not*. Very able addresses were made on this resolution, and especially by Judge Elmore, of Alabama, who earnestly advocated the submission of the constitution to the vote of the people as the only course that was safe or proper. This is the more important, as Judge Elmore is a man of very decided ability and of great influence with the pro-slavery party. He was president of this democratic convention, and is a delegate to the constitutional convention which assembles in September next. This resolution, which was regarded as substantially against the submission of the constitution to the vote of the people, was laid on the table as *a test vote* by a vote of forty-two to one. The result was announced by the president of the convention amid enthusiastic cheers. The convention also passed unanimously resolutions pledging me their cordial support in maintaining the laws and promoting the pacification of the Territory. They also appointed a committee to wait upon me and request me to address them, which I did, most cordially approving their course, and urging the necessity of a complete union between all the democrats of the Territory as essential to its peace and prosperity and the harmonious settlement of the difficult questions by which Kansas had been so long embarrassed. This address was received with enthusiastic cheers, again and again repeated, demonstrating, in a manner the most gratifying and satisfactory, that the course pursued by me since my arrival in Kansas meets the cordial approbation of the democratic party in this Territory, whether composed of northern or of southern democrats.

I have met many distinguished democrats of the south on visits to Kansas since my arrival here, many of whom have occupied high positions in the country, and all of whom have expressed to me, as well as on all proper occasions to others, their cordial approbation of my course. The democrats of the State of Missouri also, the State most deeply interested, next to Kansas, in the settlement of these questions, have also sustained me with extraordinary unanimity, because they know that upon no other plan can there be a peaceful settlement of the Kansas question; that any other course would separate the free State democrats from their pro-slavery associates, and bring Kansas into the Union as an ultra abolition State. They reason thus: that if there be a majority of the people of Kansas in favor of making this Territory a slave State, they will so vote when the constitution is submitted for their consideration; but that if the free State party constitute a majority, and a constitution pro-slavery in its character should be adopted by the convention without submission to the people, they see very plainly that this party, driven by such a course into violent opposition to southern institutions, will elect an abolition State legislature, send two abolition senators to the senate of the United States, and a member to Congress entertaining similar sentiments, and that, at a very early period, they would amend the constitution, and make it hostile, in every respect, to the institutions of the south. Yet they would have been admitted as a State, and their power to amend the State constitution could not be arrested. Thus it would happen that, whilst for a short time Kansas would have a pro-slavery constitution on parchment, she would be rendered by this course, in fact, an abolition State, opposed to the fugitive slave law, and necessarily producing collision with the coterminous State of Missouri. Indeed, if the convention (of which I have no fears) should adopt a constitution without submission to the people, and it should be pro-slavery in form, it would be accompanied by an abolition State legislature, abolition United States senators and member of Congress, and an immediate movement for the amendment of the constitution, which would soon be carried into effect; and the southern States, in my judgment, would vote unanimously against the admission of Kansas, because the constitution had not been submitted to the people; otherwise they will have received the Grecian horse within the walls of Troy. Indeed, it is universally admitted here that the only real question is this: whether Kansas shall be a conservative, constitutional, democratic, and ultimately free State, or whether it shall be a republican and abolition State; and that the course pursued by me is the only one which will prevent the last most calamitous result, which, in my opinion, would soon seal the fate of the republic.

After much conference with a majority of the delegates elected to the constitutional convention which meets in September next, my opinion is that they will in all probability pursue this course, viz: to adopt a State constitution very similar to that of some of the southern States, securing the right to the slaves now in the Territory, numbering probably from two to three hundred, but prohibiting the introduction of any more slaves; excluding all free negroes, enforcing, by most stringent provisions, the execution of the fugitive slave law, se-

curing the right of appeal, in all constitutional cases, to the Supreme Court of the United States, and requiring all officers of the government, legislative, executive, and judicial, the judges and inspectors of all elections, and the attorneys of all courts, to take an oath to support the constitution of the State and of the United States. Such a constitution, if submitted to a vote of the whole people, would, in my opinion, be adopted by a very considerable majority, for I think the great mass of the free State democrats and of the pro-slavery men would unite in its support, as the best that could possibly be done under existing circumstances. Such a constitution would meet my most cordial approval, and I should devote my whole time in addresses every day, to the people of every county of the Territory, to insure its adoption. Indeed, I greatly prefer this plan to any other, if it should be practicable. Many of the pro-slavery men object to a constitution which shall be silent on the subject of slavery, on several grounds: first, because it would not settle the question; secondly, because, the question being unsettled, it might prevent a union between the free State democrats and the pro-slavery men in the election of a State legislature; thirdly, because, there being no prohibition of emancipation in the constitution, they apprehend the State legislature would, at their first meeting, abolish slavery altogether in Kansas, including the slaves heretofore in the Territory, and, as the result of such an agitation, throw the State into the hands of the republican or abolition party. Still, however, if the convention deem it best to adopt such a constitution, it will receive my cordial support, and my best efforts would then be directed to secure a union between the free State democrats and the pro-slavery party in the election of the State legislature.

I am not disturbed by the assaults made upon me in some of the southern States, because I feel a profound conviction of the propriety of my course; and that when I can address my southern fellow-citizens fully and freely, and make known all the facts, without endangering the settlement of this question, their censure, as just and enlightened men, must be changed into cordial approbation. I do not speak now of DISUNIONISTS, whose censure is praise, and whose approbation I neither expect nor desire.

Immediately after the adjournment of the democratic convention at Leecompton, I proceeded to address you an official letter, but was interrupted by an express from the city of Leavenworth, informing me of the preliminary examination, then progressing, of two prisoners, being free State men, charged with the murder of a pro-slavery man, stating that there was great danger of a rescue, and of a general fight between the two parties; that General Harney had been called upon for the aid of the troops, and had refused without my order, and urging my immediate presence in Leavenworth as necessary to prevent a most serious disturbance. I proceeded immediately to the city of Leavenworth, when two letters (copies of which are herewith given, marked Nos. 1 and 2) were handed to me by the sheriff. Some of our leading friends in Leavenworth thought that the sending of troops for such a purpose might greatly injure the progress and reputation of their city, and stated that no rescue would be attempted if I would.

accompany the prisoners to the fort for safe-keeping, whilst, from time to time, the preliminary examination was progressing; taking them there for safe-keeping in the evening, and bringing them back to the court-house in the morning; and they tendered their services to accompany me in pursuing that course. I concluded, however, that it was best to take no man of either party with me to the court-house, but, accompanied in the ambulance only by one of my aids, Lieutenant Carr, and by the sheriff, I proceeded to the court-house, and, after a very brief address to the crowd, as regarded the necessity of obedience to the laws, and securing a fair trial to the prisoners before a jury of their country, the prisoners were quietly brought from the court-house, placed in the ambulance with me, Lieutenant Carr, and the sheriff, and were driven safely to the fort, which was three miles distant, thence to be brought back before the justices until their examination should be concluded. As the examination proceeded before the justices the excitement on both sides became more and more intense, and the whole city, it is said, was armed, and expected a rescue and a conflict. Under these circumstances the sheriff addressed me a letter, a copy of which is annexed, marked No. 3. After a conference with the same gentlemen who had advised me against ordering out the troops, I found that, from the increased danger and excitement, they all now concurred in the necessity of ordering out the troops to prevent a rescue, which they feared would take place during some interval of my absence from the court-house. Under these circumstances I addressed a letter to General Harney, a copy of which you will find enclosed, under date of the 6th of July. One of the prisoners was discharged by the justices; the other was committed for trial for murder in the first degree, and he was brought by the troops, without disturbance, to the fort, where he remains to await his trial in September next by a jury.

During this period a telegraphic despatch was received from General Scott, indicating that General Harney was to proceed with the troops to Utah. Subsequently, General Harney received from the same source what appeared to be an official order on this subject, indicating, if carried into execution, that Kansas would be left, not only by General Harney but by all the troops, except a single company of infantry, which would be divided between Fort Riley and Fort Leavenworth.

In view of my official letter of the 2d of June, 1857, and of the conditions upon which I agreed, with great reluctance, to accept the position of governor of this Territory, namely, that General Harney, in whom I had great confidence, and who was well known to the people of Kansas, and greatly respected by them, should be ordered from Florida, put in special command in Kansas with a large body of troops, and especially of dragoons and a battery, and retained there, subject to my directions for military operations, if necessary, in Kansas until the danger was over, and in the absence of which I never would have accepted this office, I could not but conclude that some mistake must have been made by General Scott, and that such a course could never have met the approval of the President and his cabinet, or of the Secretary of War, by whom this matter was so well

understood. Notwithstanding the official character of these orders from General Scott, I still believed that there must be some explanatory letter for me at Lecompton, and therefore, although somewhat indisposed, I proceeded at once rapidly there and found no communication. In the meantime my illness increased, being what is called the process of acclimation, and confined me to my room several days.

Whilst still suffering from debility, I received, on Monday morning last, a printed handbill, which I now enclose you, showing certain most alarming proceedings in the town of Lawrence. This was accompanied by information that the people of that town were proceeding that day to elect a mayor, aldermen and other officers, and would immediately pass and enforce ordinances, in defiance of the laws of the Territory. At the same time, the fact was communicated to me that handbills were circulated from Lawrence throughout the Territory, urging all the disaffected localities, whether towns, cities, or counties, to pursue a similar course of organization; thus overturning the territorial government in detail and necessarily producing collision with its authority, and, as a consequence, a renewal of civil war. Although still suffering from debility, as the result of my illness, I considered the crisis so alarming as to require my immediate presence at Lawrence, where I proceeded in company with Mr. Secretary Stanton, and after spending several hours there, ascertained to my entire satisfaction that all the facts communicated to me were true, and that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory; and especially in all towns, cities, or counties, where the republican party have a majority. Lawrence is the hot-bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the east, and whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State legislature to organize this insurrection, Lawrence has commenced it herself, and, if not arrested, the rebellion will extend throughout the Territory.

Under these circumstances, I have proceeded to Leavenworth, and after conferring with our friends there, and with General Harney and Major McCulloch, I deemed it my duty to direct a letter to Gen. Harney, (a copy of which, with his answer, you will find enclosed,) and to issue a proclamation, of which I send you a printed copy, and which will precede my advance to-morrow with the troops to Lawrence.

The regiment will be commanded by Colonel Cook, who will act in obedience to my orders. I shall encamp in the immediate vicinage of Lawrence, and in a manner conformably to the law will put down by military force, if necessary, this most wicked rebellion.

In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the government and to the Union; and that the continued presence of General Harney here is indispensable, as originally stipulated by me, with a large body of dragoons and several batteries.

I enclose a copy of a letter from General Whitfield, which details certain proceedings, which, at one time, threatened a conflict at Doniphan, in this Territory; but I understand the matter has now been settled, at least for the present.

The movements of infantry here would be altogether too slow, and I must rely on large bodies of dragoons to preserve the peace of the Territory.

When the news of the immediate removal of General Harney and the troops reached here several weeks since, it was a cause of intense exultation with the republican party in this Territory, and it was this false expectation on their part which led to the difficulties with which the Territory is now threatened.

For myself, I never could believe, nor do I now believe that the President or the Secretary of War would violate any of their solemn pledges, in relation to General Harney and the troops, and I am rejoiced to be reassured by Major McCulloch that such a movement was never intended without my consent.

With great respect and consideration, I am your obedient servant,
R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State.

No. 1.

LEAVENWORTH COUNTY, KANSAS TERRITORY,
July 4, 1857.

MY DEAR SIR: I have committed to my charge, as sheriff of Leavenworth county, two prisoners committed under the charge of murder in the first degree, and, owing to the fact of the insufficiency of prisons and the excitement that evidently prevails in consequence of the late murder and commitment of the murderers, the undersigned entertains great fears that the prisoners will be rescued from his charge, and, in consequence, violence and disorder would prevail. I therefore ask of you that you furnish me with a sufficient number of United States troops to guard with safety the prisoners, or have them placed in charge of the United States officers at Fort Leavenworth.

Respectfully, yours,
S. W. TUNNELL, *Sheriff.*
By JOEL T. MOORE, *Deputy Sheriff.*

Governor ROBERT J. WALKER.

No. 2.

LEAVENWORTH COUNTY, KANSAS TERRITORY,
July 4, 1857.

SIR: Since my last, of to-day's date, I have been credibly informed that a party of men have asserted that if the prisoners (mentioned in my last) were not let to bail they would release them.

Respectfully, yours,
S. W. TUNNELL, *Sheriff.*
By J. T. MOORE, *Deputy Sheriff.*

Governor R. J. WALKER.

No. 3.

JULY 6, 1857.

DEAR SIR: Since I arrived at this place it has been suggested by the two justices of the peace to me that they thought it best for you to send some eight or ten men. They apprehend some danger of some excitement getting up, and it may result in a serious difficulty, in regard to those prisoners. If you can, you will much oblige your obedient servant,

S. W. TUNNELL,
Sheriff of Leavenworth county,

HON. R. J. WALKER,
Governor of the Territory of Kansas.

LEAVENWORTH, July 6, 1857.

SIR: On Saturday last two several written applications were made to me by the sheriff of this county for the aid of the military authority to prevent the rescue of two persons, now undergoing examination before a justice of the peace in the city of Leavenworth, under a charge of murder in the first degree. I did not comply with the request, but proceeded to the place of trial with the deputy sheriff, and after a brief explanation to the crowd, accompanied the prisoners myself in a carriage about three miles to the fort, where they have since been safely kept, and were taken back this morning to Leavenworth, where the preliminary examination is still progressing. I have this moment received a third letter from the sheriff, in which he says two justices of the peace concur in representing the danger as imminent, and requesting military aid. Under the circumstances, you are requested to furnish immediately one company of troops as a *posse comitatus* in aid of the sheriff in the due execution of the laws, and for the preservation of the public peace, and that they may be ordered for this purpose to the place where the trial of the accused is now progressing.

Most respectfully, your obedient servant,

R. J. WALKER,
Governor of Kansas Territory.

Brevet Brigadier General W. S. HARNEY,
Commanding troops in Kansas, &c., &c.

DONIPHAN, *July 7, 1857.*

DEAR SIR: As a federal officer having charge of important and valuable documents, and occupying a position of great responsibility as regards the general government and the citizens of this land district, I feel it my duty to inform you of the condition of things in this town, which imperil the safety of those documents and the peace and quiet of the neighborhood.

The facts are simply these:

A few days since, a personal difficulty occurred between Mr. Boyd, a pro-slavery citizen, and Mr. Mitchell, a free-soil citizen; a challenge passed, and the parties were upon the ground to settle the matter by duel, when they were arrested and bound over by the legal authorities. Last night a large number of the free-soil party assembled and seized some muskets from the custody of the pro-slavery party, and made various hostile demonstrations and threats. General Lane informed some gentlemen that he had counted two hundred and fifty of his party under arms.

I took my family to St. Joseph, and induced some gentlemen of influence to accompany me back for the purpose of making peace, and harmonizing the disturbed elements. We came down this evening, and found the excitement greater than yesterday. The pro-slavery party demanded their arms; the other party refused to surrender them; finally, by compromise, all the arms in the hands of both parties belonging to the military company were delivered to the captain of the company; this has just been done at eight o'clock to-night.

I have heard from an unquestionable authority that there will be from three to four hundred of the free State party here to-night, and that they intend to hang Mr. Boyd, and rumor goes even so far as to assert that the records of my office will be destroyed.

Under the circumstances, and by the advice of gentlemen of the highest character, I have deemed it prudent to remove the documents to a place of safety, beyond the reach of any mob, and to advise you promptly of the state of affairs, that you, as the highest authority in the territory, may take such action in the premises as may preserve the quiet of the community, and ensure the safety of the papers and records of the government.

Some of the leaders of the free State party have said that there would be ten free State men to one pro-slavery man here to-night; but since the surrender of the muskets there may be no further disturbance—such a result is sincerely to be hoped; but none of the threats have been as yet withdrawn.

With high consideration, I am yours, truly,

J. H. WHITFIELD.

P. S. July 8, 1857.—I was unable to send this last night; it was impossible for me to procure a horse.

This morning everything is quiet, and unless the mass meeting of free-soilers held here to-morrow renew the troubles, all may pass off

quietly. The difficulty between Boyd and Mitchell is yet unsettled—a street fight may renew it.

J. H. W.

His Excellency R. J. WALKER,
Governor of Kansas Territory.

LEAVENWORTH, *July 14, 1857.*

SIR: I have received authentic intelligence that a dangerous rebellion has occurred in the city of Lawrence, in this Territory, involving an open defiance of the laws and the establishment of an insurgent government in that city.

This movement, if not speedily arrested, I am also assured, will be extended throughout the Territory, and must result in a renewal of civil war.

It becomes, then, my painful duty, under my instructions from the President of the United States, to request you to furnish a regiment of dragoons, to proceed at once to the immediate vicinage of Lawrence, to act as a *posse comitatus* in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace. The service of the troops for this purpose will be discontinued so soon as the public exigency will permit.

Respectfully yours,

R. J. WALKER,
Governor of Kansas Territory.

Brevet Brig. Gen'l W. S. HARNEY,
Commanding troops in Kansas, &c., &c.

HEADQUARTERS TROOPS SERVING IN KANSAS,
Fort Leavenworth, July 15, 1857.

GOVERNOR: I have the honor to acknowledge the receipt of your communication of yesterday's date, requesting a regiment of dragoons to proceed at once to the immediate vicinage of the city of Lawrence, in this Territory, to act as a *posse comitatus* in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace.

In answer I desire to inform you that I have directed Lieut. Col. Cook, of the 2d dragoons, to proceed with seven companies of his regiment, all the disposable force of that arm, to the vicinity of the city of Lawrence, and to report his force to yourself, as a *posse comitatus* to execute such orders as you may deem proper to give him in that capacity.

I am, governor, very respectfully, your obedient servant,
WM. S. HARNEY,
Col. 2d Dragoons, Brev. Brig. Gen'l Commanding.
To his Excellency ROBT. J. WALKER,
Governor of Kansas Territory, Leavenworth, K. T.

CHARTER OF THE CITY OF LAWRENCE.

At a meeting of the citizens of Lawrence, held in front of the Morrow House, to hear the report of a committee, appointed at a previous meeting, to prepare a charter for the city of Lawrence, on motion, G. W. Hutchinson was appointed chairman, and S. N. Wood, secretary.

James Blood, esq., chairman of the committee, reported a charter, which was accepted, and the committee discharged. On motion the report was taken up in sections, amended and adopted unanimously. On motion the meeting then adjourned.

G. W. HUTCHINSON, *President.*

Attest, S. N. WOOD, *Secretary.*

Be it ordained by the inhabitants of the town of Lawrence, 1st. That all that district of country contained within the following limits, to wit: Beginning at a point in the middle of the channel of Kansas river eighty rods west of the northeast corner of section thirty-one, in township twelve, range twenty; thence due south of the centre of the southeast quarter of said section thirty-one; thence due west to the west line of said section; thence due north to a point eighty rods north of the northwest corner of said section thirty-one; thence east to the middle of the channel of the Kansas river; thence with the middle of the channel of the said river to the place of beginning shall be and is hereby erected into a city by the name of the city of Lawrence, and the inhabitants thereof shall be and are hereby constituted a body politic and corporate, by the name and style of the mayor, alderman and citizens of the city of Lawrence, and by that name they and their successors shall be known in law, have perpetual succession, sue and be sued, implead and be impleaded, defend and be defended in all courts of law and equity, and in all action and matters whatsoever; may grant, purchase, receive and hold property real and personal within the said city and no other, (burial grounds excepted,) and may lease, sell and dispose of the same for the benefit of the city, and may do all other acts as natural persons; may have a common seal and break and alter the same at pleasure.

2d. The corporate powers and duties of said city shall be vested in a mayor and board of seven alderman, who shall be chosen by the qualified electors for the term of one year, shall be at least twenty-one years of age, and citizens of this State and of the United States, or persons who have declared their intention to become citizens of the United States, and inhabitants of the said city ninety days prior to said election, and all vacancies shall be filled by election as aforesaid in such manner as shall be provided by ordinance. When the convenience of the inhabitants shall require it, the city shall be divided into convenient wards, which may be altered from time to time and new wards established, and the aldermen shall be apportioned among the several wards according to the number of qualified electors in each.

3d. The mayor and aldermen shall appoint their clerk and all other officers within the city which are not ordered by law or ordinance to be otherwise appointed, or elected, and shall judge of the qualifications, elections, and returns of their own members. A majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the board may provide.

4th. The stated meetings of the board shall be held on the second Tuesday of each month, at such place as they may appoint; but the mayor may call special meetings by notice to each of the members of said board.

5th. No member of the board shall, during the period for which he was elected, be appointed to or competent to hold any office the emoluments of which are paid from the city treasury, or be directly or indirectly interested in any contract, work, or business, or the sale of any article, the expense, price, or consideration of which is paid from the city treasury, or by any assessment levied by any act or ordinance of said board; nor shall any such member be directly or indirectly interested in the purchase of any real estate or other property belonging to the corporation, or which shall be sold for taxes or assessments, or become security for any officer appointed by said board, or for any contractor under the city government.

6th. When any vacancy shall happen in the office of mayor by death, resignation, removal, or absence from the city, refusal to qualify, or otherwise, the aldermen shall elect one of their own number for the time being, who shall exercise the office of mayor until such vacancy shall be filled; and in case of vacancy, as aforesaid, other than a temporary absence. The person exercising the office of mayor shall cause a new election to be held, giving ten days' notice thereof by proclamation.

7th. The mayor and board of aldermen shall have power, by ordinance, to levy and collect taxes upon real and personal property within the city not exceeding one-half of one per centum upon the assessed value thereof, except as hereinafter excepted; to make regulations to prevent the introduction of contagious diseases; to make regulations to secure the general health of the inhabitants; to prevent and remove nuisances; to establish night watches and patrols; erect lamps in the streets, and lighting the same; to provide for licensing, taxing, and regulating auctions, retailers, ordinaries, and taverns, billiard tables, hackney carriages, wagons, carts, drays, pawnbrokers, hawkers, and peddlars, theatrical and other shows and amusements; to restrain and prohibit tippling houses, gaming houses, bawdy houses, and other disorderly houses; to establish and regulate markets; to establish and repair bridges; to open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, and keep the same clean; to provide the city with water; to provide for safe-keeping standard weights and measures for the regulation of weights and measures to be used in said city; to regulate the cleaning of chimneys and fix the fees therefor; to provide for the prevention and extinguishment of fires; to provide for the inspection of lumber and other building materials to be sold

or used therein ; to regulate and order partition and parapet walls and partition fences ; to regulate the inspection of butter, lard, wood, and the weight and quality of bread ; the storage of gunpowder, tar, pitch, hemp, and other combustible materials ; to erect pumps in the streets for the convenience of the inhabitants, and from time to time pass such ordinances to carry into effect this act, and the powers hereby granted, as the good of the inhabitants may require, and impose and appropriate fines and forfeitures for the breach of any ordinances, and provide for the collection thereof: *Provided*, That no tax shall be laid upon the wearing apparel, or necessary tools or implements of any person used in carrying on his trade or profession, nor shall the same be subject to distress or sale for tax.

8th. On the application of the holders of more than one half of the front of the lots on any street or part of a street, it shall be lawful for the mayor and aldermen to levy and collect a special tax on the holders of the lots on said street or part of a street, according to their respective fronts, for the purpose of paving or planking such street or part of a street, or for the purpose of paving or planking the sidewalks of such street or part of a street ; upon a similar application, to levy a tax in the same manner for the purpose of lighting the streets, or erecting lamps therein.

9th. The mayor and aldermen shall have power to regulate, pave, and improve the streets, avenues, lanes, and alleys within the limits of the city.

10th. The style of ordinances of the said corporation shall be : " Be it ordained by the mayor and board of aldermen of the city of Lawrence," and all ordinances shall, within one month after they are passed, be published in some newspaper printed in said city.

11th. The corporate board shall appoint a clerk or register of the city who shall perform the duties of clerk to the board of aldermen when in session ; he shall keep a book or books wherein shall be entered all the proceedings of the board, which book or books shall at all proper times be open to the inspection of the inhabitants of the city, and he shall keep and preserve in his office all records, public papers, and documents belonging to the city, and shall perform such other duties as shall be enjoined on him by ordinance ; he shall hold office for the term of one year, unless sooner removed.

12th. The mayor and each of the aldermen, and every other officer of the corporation shall, before entering on the duties of this office, take and subscribe an oath or affirmation before some judge or justice of the peace, or other proper officer, to support the Constitution of the United States, and of this State, and faithfully to discharge the duties of his office.

13th. There shall be elected at each general election three city assessors, a city treasurer, and one justice of the peace in each ward, who shall, before entering upon the discharge of the duties of their office, take the oath of office by this act prescribed ; and the city treasurer shall enter into bond with the said corporation, with sufficient security, the amount to be fixed by the board of aldermen, to be approved of by the mayor, conditioned for the faithful discharge

of the duties of his office, which bond shall be deposited and recorded in the clerk's office.

14th. At each general election there shall be elected a city marshal, who shall, before entering upon the discharge of the duties of his office, take the oath of office by this act prescribed, and enter into bond to the said corporation, with sufficient sureties, the amount to be fixed by the board of aldermen, to be approved of by the mayor, conditioned for the faithful discharge of the duties of his office, which shall be deposited, recorded, and kept on file in the clerk's office; and said marshal shall possess the same powers, and perform the same duties within the city, as the constables in the different townships possess in their respective townships, and shall moreover execute and return all process which may be issued by the mayor or any alderman; he shall collect all city taxes, and perform such other duties as shall be prescribed by ordinance, and shall be entitled to the same compensations of collectors, sheriffs, and constables in like cases.

15th. A general election for the officers of the corporation shall be held on the first Monday in March, in each and every year, in such manner as the mayor and aldermen may by ordinance provide. All such elections the vote shall be by ballot, and the judges of such election or any two of them shall make out and deliver to each person elected a certificate thereof, and the person so elected shall take and subscribe the oath of office before some judge or justice of the peace, or other proper person, which being endorsed on such certificate shall be certified by such judge or justice.

The foregoing provisions of this act shall take effect as soon as they shall be accepted by the inhabitants of said town and not before, in the manner following, that is to say:

An election shall be held on the second Wednesday of July instant, at the office of Ladd & Prentiss, at which place all qualified electors, who reside within the limits prescribed in the first section of this act, shall be entitled to vote, and at the said election the voters shall vote by ballot for or against the city charter, and if a majority of all the votes given shall be for the city charter, then the first election for city officers shall be held at the same place on the second Monday in July inst., said election be held and conducted by A. D. Searl, C. Hornsby, H. Campbell, as judges. The officers elected at the first election shall continue in office until the first Monday in May, A. D. 1858, and until their successors are duly elected and qualified: *Provided*, That the general assembly may at any time repeal, alter, amend or modify this act at pleasure.

To the People.

In presenting the accompanying charter, it may not be improper for your committee to state a few of the reasons which seem to render the organization of a city government not only proper but imperative.

It will hardly be disputed that the people are the only true and legitimate fountain of all human government. Political and social

rights are not dependent upon the gift of organizations, but are inherent in the people.

As all governments, whether State or municipal, depend primarily upon the will of the people, and exist only for their protection and convenience, it follows that, in the absence of constituted authorities and organized governments, the people are left to act in their primary and independent capacity, and form a government for themselves.

Such is the condition of the people of Lawrence with reference to their municipal affairs. For more than two years we have lived without law. Owing to the orderly and peace-loving character of our citizens, we have happily been preserved, so far, from many of the evils which would usually be incident to such a situation. As our population, however, increases, and the city fills up, the necessity for some municipal organization is every day becoming more and more apparent.

Police regulations are necessary for the preservation of peace; sanitary measures are essential to the preservation of health; we are unprotected against the ravages of fire; in short, all the varied necessities of a rapidly growing city demand a municipal government.

The only point of embarrassment in this movement arises from the unhappy condition of political affairs in our Territory. Under ordinary circumstances the more regular method of proceeding would be to obtain a charter from the territorial authorities. As the territorial government, however, in no sense represents the people of Kansas, was not elected by them, and can have no right to legislate for them, we cannot accept of a charter at its hands. And as the State government has not as yet deemed it advisable to proceed to the organization of local and municipal governments, we cannot obtain a charter from it. There is, therefore, left us only the alternative of a charter springing directly from the people, or a continuance in our present unorganized condition.

Under these circumstances, you have seen fit to instruct us to present a charter, have discussed its provisions in a preliminary assemblage, and now propose to submit it to a full vote of the people for approval or rejection.

In the event of its adoption, it is believed that the beneficial effects of a city government will be so apparent to all, that no good citizen will feel inclined to dispute its authority or resist its claims. As its action will be purely local and have reference merely to our own internal affairs, no collision is apprehended with any other organization claiming to exercise general jurisdiction in the Territory.

J. BLOOD,
Col. S. W. ELDRIDGE,
G. W. HUTCHINSON,
C. STEARNS,
GEO. FORD.

TO THE PEOPLE OF LAWRENCE.

PROCLAMATION.

LEAVENWORTH, *July 15, 1857.*

I have learned that a considerable number of the citizens of Lawrence, in this Territory, have adopted, as they claim, by a popular vote, a charter for their local government. A copy of that charter has been placed in my hands; upon comparing which with that granted by the territorial legislature last winter, I find that they differ intentionally in many essential particulars. The new charter, then, is set up, not only without any authority of law, but in direct and open defiance of an act of the territorial legislature on the same subject.

On this point your committee, whose views have been adopted by you, make the following statement:

“Under ordinary circumstances, the more regular method of proceeding would be to obtain a charter from the territorial authorities. As the territorial government, however, in no sense represents the people of Kansas, was not elected by them, and can have no right to legislate for them, we cannot accept of a charter at its hands; and, as the State government has not as yet deemed it advisable to proceed to the organization of local and municipal governments, we cannot obtain a charter from it, there is, therefore, left us only the alternative of a charter springing directly from the people, or a continuance in our present unorganized condition.

“Under these circumstances, you have seen fit to instruct us to present a charter, having discussed its provisions in a preliminary assemblage, and now propose to submit it to a full vote of the people for approval or rejection.”

It will be perceived that the authority of the territorial government is here distinctly denied, and whilst that of the so-called State government is acknowledged, it is conceded that no charter has been granted by them; indeed, it is a fact that, although this so-called State government has in itself no legal existence or authority, yet you asked and failed to receive a charter from them.

Under these circumstances you have proceeded to establish a government for the city of Lawrence in direct defiance of the territorial government, and denying its existence or authority. You have granted to this city government the authority to elect a mayor and board of aldermen, city assessors, treasurer, justices of the peace, city marshal, &c.; you have granted to the mayor and board of aldermen most extensive powers, including the right to levy and collect taxes upon real and personal property within the limits of the city, whether belonging to residents or non-residents, and all the other powers usually incident to a city government. You have imposed upon all these officers the duty of taking an oath to support this so-called State constitution, thus distinctly superseding, so far as in your power, the territorial government created by the Congress of the United States. You have caused these proceedings to be printed in hand-bill form,

and have distributed them, as I am informed, throughout the Territory, with the view to incite the other cities, towns and counties of Kansas to establish insurrectionary governments, thereby placing the people of this Territory, so far as in your power, in open conflict with the government of the United States.

The more conservative portion of your own party having induced your Topeka legislature to reject the laws urged by you, creating municipal governments, you have, even in defiance of their authority, which you profess to acknowledge, proceeded to create such a government for Lawrence, and are now urging other localities to pursue a similar course. Your evident purpose is thus to involve the whole Territory in insurrection, and to renew the scenes of bloodshed and civil war. Upon you, then, must rest all the guilt and responsibility of this contemplated revolution. You will be justly chargeable in law and in conscience with all the blood that may be shed in this contest, and upon you must fall the punishment. You have elected your officers under this charter, and instructed them to enter upon the immediate discharge of their duties, including the adoption of ordinances and the execution thereof, under an authority having in itself no legal existence, and established in direct defiance of the government of the United States.

From all these facts it is obvious, if you are permitted to proceed, and especially if your example should be followed, as urged by you, in other places, that for all practical purposes, in many important particulars, the territorial government will be overthrown. The charters granted by that government for similar purposes will be disregarded and the justices of the peace and other officers acting under their authority, will be brought necessarily into conflict and collision with the so-called officers claiming to act under different authority. The Territory will thus be involved in inextricable confusion and litigation, the value of your property be greatly depreciated, your titles, transfers, transactions, and contracts will be subjected to endless disputes, and all will suffer from this insurrection, except the lawyers who have stimulated this movement. A government founded on insurrection and usurpation will be substituted for that established by the authority of Congress, and civil war will be renewed throughout our limits. If your authority to act in this manner for the city of Lawrence is permitted, a similar authority must be acknowledged in every other town, city, or county, result in inevitable and most disastrous conflict, and, if successful, the territorial government be overthrown in detail, as is your present purpose.

You were distinctly informed in my inaugural address of May last that the validity of the territorial laws was acknowledged by the government of the United States, and that they must and would be carried into execution under my oath of office and the instructions of the President of the United States. The same information was repeated in various addresses made by me throughout the Territory. At the same time, every assurance was given you that the right of the people of this Territory, under the forms prescribed by the government of your country, to establish their own State government and frame their own social institutions, would be acknowledged

and protected. If laws have been enacted by the territorial legislature which are disapproved of by a majority of the people of the Territory, the mode in which they could elect a new territorial legislature and repeal those laws was also designated. If there are any grievances of which you have any just right to complain, the lawful, peaceful manner in which you could remove them, in subordination to the government of your country, was also pointed out.

You have, however, chosen to disregard the laws of Congress and of the territorial government created by it, and whilst professing to acknowledge a State government rejected by Congress, and which can therefore now exist only by a successful rebellion, and exacting from all your officers the perilous and sacrilegious oath to support the so-called State constitution; yet you have even in defiance of the so-called State legislature which refused to grant you a charter, proceeded to create a local government of your own, based only upon insurrection and revolution. The very oath which you require from all your officers to support your so-called Topeka State constitution is violated in the very act of putting in operation a charter rejected even by them.

A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country.

Permit me to call your attention, as still claiming to be citizens of the United States, to the results of your revolutionary proceedings. You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason. You stand now, fellow-citizens, upon the brink of an awful precipice, and it becomes my duty to warn you ere you take the fatal leap into the gulf below. If your proceedings are not arrested you will necessarily destroy the peace of this Territory and involve it in all the horrors of civil war. I warn you, then, before it is too late, to recede from the perilous position in which you now stand.

I appeal once more to your reason and patriotism. I ask you in the name of our common country, in the name of the Constitution and of the Union, to desist from this rebellion. I appeal once more to your love of country, to your regard for its peace, prosperity and reputation, to your affection for your wives and children, and to all those patriotic motives which ought to influence American citizens, to abandon this contemplated revolution. If you have wrongs, redress them through the peaceful instrumentality of the ballot-box, in the mode prescribed by the laws of your country.

As all arguments heretofore so often addressed by me to you have failed as yet to produce any effect upon you, I have deemed it necessary for your own safety, and that of the Territory, and to save you from the perilous consequence of your own acts, under the authority vested in me by the President of the United States, to order an adequate force of the troops of the United States into your immediate vicinage, to perform the painful duty of arresting your revolutionary proceedings. Let me implore you not to compel me to appeal to that military power

which is required in the last resort, to protect the government of your country. You cannot carry your rebellious purposes into effect without coming into unavoidable and open conflict with the troops and government of the United States.

Let me adjure you, then, once more, to abandon these proceedings before you involve yourselves in the crime of treason, and subject the people of the city of Lawrence to all the horrors and calamities of insurrection and civil war. If you will now desist from this projected revolution the past will be forgotten as far as practicable; but if you persist in passing these laws and carrying them into execution, thus defying and superseding the government of your country, the deplorable consequences must be upon your heads and those of your associates. It will be my purpose, if you still persist, to spare all bloodshed as far as practicable, and subject the leaders and projectors of this revolutionary movement to the punishment prescribed by the law. I will accompany the troops to Lawrence with a view to prevent, if possible, any conflict, and in the sincere hope that the revolutionary movement contemplated by you, and now so nearly accomplished, will, ere it is too late, be abandoned by you.

If you can be influenced by no other motives, the evident fact that the power of the government is adequate to prevent the accomplishment of your purpose should induce you to desist from these proceedings.

That the same overruling Providence who holds in his hands the destiny of our beloved country may now incline your hearts to peace, and influence you to abandon this fatal enterprise, is the sincere wish of your fellow-citizen.

R. J. WALKER,
Governor of Kansas Territory.

Mr. Walker to Mr. Cass.

CAMP COOKE, NEAR LAWRENCE,
Kansas Territory, July 20, 1857.

SIR: The effect of my proclamation of the 15th instant has been to divide the people of Lawrence into two distinct parties, one, as heretofore, in favor of overthrowing the territorial government, and the other opposed to that course. The former urge the mayor, alderman, and other officers who have been elected to take the oath of office and proceed to the execution of their duties, including the enactment of ordinances. The other party disapprove of that course, and do not desire a conflict with the government of the United States. My own opinion is that the revolutionary party is, as yet, largely in the majority in Lawrence, and that they would proceed to carry their purposes into effect so soon as the troops should be withdrawn. We have now here only 262 men, of the 2d dragoons, who are encamped about one mile from Lawrence.

Most violent and insurrectionary speeches have been made by the orators of this revolutionary party at Lawrence, and it has been openly

proclaimed that they can bring ten thousand men into the field to sustain their movement. Some three hundred men, it is said, have been drilling a few miles from Lawrence, and couriers from various towns bring offers to that city of military assistance.

I am no alarmist; but if the Lawrence rebellion is not put down, similar organizations, extending to counties as well as towns, will be carried into effect throughout the Territory, the object being to overthrow the territorial government and inaugurate the Topeka State government, even before the admission of Kansas as a State by Congress.

There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown or reduced to a condition of absolute imbecility. I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is indispensably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command. These troops, as far as practicable, should consist mainly of dragoons, as celerity of movement to different points is very important. We should also have at least two batteries, including Sherman's battery, now at Fort Snelling. Experience has proved that to order out the local militia is simply to renew the civil war in Kansas. Indeed, from whatever State you might order militia they would, to a great extent, take sides with one or other of the two parties here, and the result might prove most disastrous.

The only practical-way to maintain the peace of the Territory, and to inaugurate a party which would support the Constitution and the Union, is to unite the free State democrats here (who were with us in the election of 1852) with the pro-slavery party of Kansas.

This could be accomplished in no other way than by carrying out the policy indicated in my inaugural address and various speeches. This policy was making great and successful progress when the violent attacks made upon it, and upon me by southern extremists, reached the Territory. These proceedings, I assure you, have produced deep indignation among the free State democrats, many of whom had professed to me a willingness not to impair the right to the slaves now in the Territory, and to adopt conservative clauses in the constitution as to the fugitive slave law, and appeals to the Supreme Court of the United States. But since the proceedings of those extremists have become known here, some of these free State democrats have receded from this conservative position, notwithstanding all my arguments addressed to their reason and patriotism, and there is most serious apprehension that a considerable portion of them will join the republicans, not, perhaps, in their revolutionary proceedings, but in insisting on a constitution similar in all respects to that of the free States generally. A perfect union of free State democrats with the republicans on this question would constitute an admitted and overwhelming majority of the people of the Territory, and, if effected, would produce the most deplorable results, not only in the bordering State of Missouri, but throughout the Union. Indeed, I entertain

the most serious apprehensions that, if the Kansas question cannot be settled in pursuance of the policy advocated by me, the harmony of the Union, if not the very existence of the government, may be placed in imminent peril. Had I remained silent on the points discussed in my inaugural, no hope would have existed of any settlement of this question in any manner favorable to the peace and harmony of the Union. I shall continue my efforts unceasingly to cement the Union between the free State democrats and the pro-slavery party here upon the policy indicated in my inaugural address; and if this can be accomplished, the great object of my mission will have been attained, and Kansas come into the Union as a conservative State, without any confiscation of the slave property now within her limits.

If these most unmerited attacks upon me and my policy by the extremists of the south should be continued, I cannot speak with entire confidence of the result, although my efforts shall be unrelaxed up to the last moment, inasmuch as I believe that the existence of this government may depend upon the peaceful and proper adjustment of this question. It may be necessary for me to answer the southern ultras in a published address; if so, it will be made upon my own responsibility, and the administration will be answerable for it in no respect whatever.

I know that I could most successfully vindicate myself from their assaults, but there is great difficulty in fully effecting this object, and at the same time preventing an unfavorable influence upon the free State democrats of Kansas. If I should determine to publish such an address, I will endeavor to do it in such a manner as, whilst vindicating myself from the most unjust assaults, will at the same time say nothing which would increase the indignation already excited among the free State democrats of Kansas.

On one point I have been grossly misrepresented. It is as to who, in my judgment, should vote upon the ratification of the constitution. I have been represented as desiring that every man should vote who happened to be in the Territory on the day of that election. This, indeed, would be desirable, if there were *conclusive* evidence that all such persons were actual *bona fide* settlers, but the only sufficient and usual proof of such a fact would be some previous residence. On this point, which is one of detail, I have never proposed to make suggestions to the convention, although when asked my opinion by members of that body I have indicated a previous residence of three or six months, and that the same qualification should be adopted in the constitution in regard, not only to that, but to all future elections, and in my judgment one or other of these terms of residence will be adopted by the convention, from whom I anticipate a cordial co-operation.

It is somewhat extraordinary that whilst this accusation of letting every man vote who may happen to be in the Territory on the day of the election has been preferred in the south as indicating a desire on my part to let in abolition vagrants and interlopers to control the result, the republicans of Kansas have drawn an entirely different conclusion, viz: that I designed in this manner to bring many thousand Missourians into the Territory to decide the contest.

It may become proper for me at some early period to explain this

matter, although my friends here understand it perfectly. The proslavery party of this Territory, from day to day as my views are unfolded, sustain me with constantly increasing cordiality and unanimity, and I think there is no danger arising from want of co-operation on their part; but the peril is from driving the free State democrats from us by the course pursued by the southern extremists. If the South had sustained me with perfect unanimity, (as they would have done could they have been in Kansas and understood the facts,) there would not have been the remotest doubt of my complete success.

Permit me, before closing this communication, to renew my statement that such is the revolutionary condition of affairs in Kansas, that the territorial government is in imminent danger of overthrow if I am not sustained by at least two thousand troops, chiefly dragoons, and two batteries. The presence of such a body of troops would probably prevent a conflict.

It having been asserted in Lawrence, since my proclamation was issued, that I dare not go there, believing that there was not the slightest danger, and that it was my duty to yield nothing to intimidation, I proceeded there this morning with two of my friends, spent several hours there at the principal hotel, took dinner, and was subjected to no disrespectful treatment, although my reception certainly was not cordial.

With great respect and consideration.
Hon. LEWIS CASS, *Secretary of State*.

R. J. WALKER.

Mr. Walker to Mr. Cass.

CAMP COOKE, NEAR LAWRENCE, *July 25, 1857.*

Copies of military orders 1 and 2, by General Lane, acting under direction of the Topeka convention, to organize the whole so called free State party into volunteers, and to take the names of all who refuse enrolment, have just reached me. The professed object is to protect the polls, at the election in August, of the new insurgent Topeka State legislature.

The object of taking the names of all who refuse enrolment, is to terrify the free State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary. The Lawrence insurgents await the development of this new revolutionary military organization. Whenever the judicial authority orders arrests the troops will be required as a posse comitatus.

R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State, Washington city, D. C.

[Confidential.]

The postmaster at St. Louis will please send the above immediately by mail and telegraph. The telegraphic despatch will be paid for at Washington.

R. J. WALKER.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, July 25, 1857.

SIR: Your letter of the 15th instant, and the accompanying papers, have been received and submitted to the President.

I am instructed by him to inform you that he indulges the hope that, by the prudence and firmness of your measures, supported by the patriotism and intelligence of the people of Kansas, peace and order will be firmly established in that Territory, without the necessity of resorting to the employment of force.

The President has learned with surprise, as well as regret, that the design has been avowed by some of the citizens of Kansas to adopt measures which, if carried into full effect, must inevitably lead to a collision between the lawful authorities of the Territory and the persons thus placing themselves in opposition to the law. Should such a contingency unfortunately arise, the President will employ all the necessary power confided to him by the Constitution and the laws to put an end to this illegal state of things.

The pretension of a portion of the people of Lawrence to establish a municipal government for that place, and to clothe it with legal authority to act, is so destitute of all just foundation in itself, and in any view so unnecessary, in a Territory with a government established by Congress in full operation, that the President cannot believe this illegal project will be carried into execution. And he trusts that, independently of other considerations, the able and patriotic appeal made by you to the people of Kansas in your recent proclamation, will stop all further progress in this dangerous career.

The President approves the precautionary measures you have adopted, in calling into the vicinity of Lawrence a military force to act as a posse comitatus to aid in the enforcement of the laws, should it be necessary.

He confidently relies upon your discretion as well as your firmness, and feels assured that this force will be actually employed in those cases only where there is a resistance to the law, which cannot be overcome by the proper civil officers with the ordinary means at their command. There must be not a mere declaration of intention to do acts contrary to law, but there must be an act of resistance before the military force can properly intervene.

When a civil officer has reason to believe that process placed in his hands will be resisted by force, he has the right to call for the aid of such portions of the posse comitatus as he may think necessary. And at this point may rightfully commence the action of the military force. It may be called upon as a part of the posse comitatus to aid such officer in the execution of his duty, and while so acting the troops act under his authority; and, as the head of the executive department of the territorial government, it is your duty to provide the necessary instructions in these cases, and, to render them the more effectual, the troops of the United States have been directed to act as a posse comitatus, when you shall require their services for that purpose.

In conclusion I repeat that the authority of the law must be maintained under any circumstances that may happen.

I am, sir, &c.,

LEWIS CASS.

ROBERT J. WALKER, Esq.,

Governor of the Territory of Kansas, Leecompton.

Mr. Walker to Mr. Cass.

LECOMPTON, K. T., *July 27, 1857.*

SIR: I send you herewith enclosed copies of printed military orders Nos. 1 and 2, emanating from General James H. Lane, which were placed in my hand on Saturday last, and, as I have been informed, have been extensively circulated throughout the Territory. The term for which the so-called Topeka legislature was chosen having expired, they have determined to elect a new legislature early in August next. They have also resolved to participate in the election for a delegate to Congress and for members of the territorial legislature, which takes place early in October next. The professed object of this proceeding is to protect the ballot box at these elections, which no one of the constitutional party proposes to disturb. You will perceive that these orders are dated at Lawrence, which is styled the "headquarters of Kansas volunteers;" that they are subscribed by "J. H. Lane, commanding;" and that they propose to organize regular military companies with regular officers, commissioned and non-commissioned, and also a general staff. You are aware that Gen. Lane commanded the military expedition which made an incursion into this Territory last year, and that the officers of the staff are all leading agitators for the overthrow of the territorial government.

The order No. 1 directs not only the enrolment of military companies, but requires a registry to be taken of all persons who refuse the enrollment. The object of this last requisition is believed to be to mark for persecution and oppression all those persons, and especially free State democrats, who refuse to unite in this military organization. The purpose is universally regarded to be to establish a reign of terror, calculated to drive such conservatives from the Territory, or at least to prevent their participation in the elections. A few weeks since one of these conservative democrats, who had committed no other offence than permitting the use of his name as a candidate for the constitutional convention, was abused and injured in the most shocking manner, and the most revolting atrocities were committed upon his wife by some of the insurrectionary party.

Gen. Lane and his staff everywhere deny the authority of the territorial laws, and counsel a total disregard of those enactments. It will be perceived from general order No. 1 that it is designed to extend this military organization into every "town, neighborhood, and settlement of Kansas," and, from general order No. 2, that this military

organization embraces the whole Territory, being arranged into four divisions and eight brigades.

There is no longer any pretext for the suggestion that any portion of the people of Missouri intend to invade the ballot box at any election in Kansas. The election of a so-called State legislature, and their action, so long as it should be confined to petitioning Congress to admit them as a State under the so-called Topeka State constitution, hopeless as such an effort may be, I have not felt it to be my duty, or indeed within my power, to prevent by force, unless the parties should be arrested under some legal process, and a call should be made upon me for troops to act as a *posse comitatus* in aid of the civil authorities; but to permit such a movement as the illegal election of an unauthorized legislature by complete military organization extending throughout the territory, in my judgment, must put in imminent peril the peace of Kansas, and would probably involve it again in civil war.

Under these circumstances, and, if possible, to prevent bloodshed by the location here of a superior force, I most earnestly recommend that regular troops to the number of two thousand, including two batteries, be sent here at once, and that as large a number of this force as possible should be composed of mounted men. If this should be done, I trust it will be in my power to preserve the peace of the Territory and ensure the execution of the laws. If this is not done, and there be no more troops at my disposal than the very small number now stationed in the Territory, there is reason to apprehend the most serious consequences, fatal to the peace of the Territory, and putting in imminent peril the just and pacific settlement of the great question now at issue here. I am well satisfied that a large portion of the insurrectionary party in this Territory do not desire the peaceful settlement of this question, but wish it to remain open in order to agitate the country for years to come. Such a result I would regard as most disastrous, not only to the peace and prosperity of Kansas, but as putting in imminent jeopardy the government itself.

No change has taken place since my last communication in the condition of affairs in the city of Lawrence. So far as I can learn, the insurrectionary local government has not been organized by the swearing in of officers, or the passage of ordinances. That all this, with the establishment of similar insurgent local governments throughout Kansas, would have taken place if the troops had not been marched to the vicinage of Lawrence and there located, is quite certain.

Under the protection of the troops, but without any interference on their part or mine, I understand that a highly respectable conservative party is now organizing in Lawrence, but if the military organization, proposed by Gen. Lane and the Topeka convention, is carried into effect, and no adequate force is placed in the Territory, it is quite clear to me that the insurrectionary movements throughout Kansas will go on, and a collision become inevitable, in which we may be compelled to encounter vastly superior numbers. It is upon principles of humanity and to preserve the peace of the Territory without bloodshed, if possible, that I desire the presence of an adequate force, which, operating by a moral power, will, I trust, render unnecessary a resort to physical force. Such a resort would be to me a most pain-

ful alternative, but I regard it as my duty to have recourse even to this, rather than see the territorial government overthrown and the laws successfully and forcibly resisted.

I send you a copy of my letter of the 23d instant to Gen. Harney, together with copies of a communication of the 22d instant, from the commissioners for the sale of the Delaware trust lands in this Territory, and from the register and receiver of the United States land office at Osawkee, as also of Gen. Harney's letter to the commissioner under date of the 21st instant. As the whole number of troops encamped with me near Lawrence amounted to but 262 men, for that as well as for the reasons stated in my letter to General Harney, I could not detach any portion of that force for the purpose indicated by the commissioner. I have not yet heard from General Harney in reply to my letter of the 23d instant, but am informed, however, that a small number of troops have been sent by him to Osawkee.

I can hear, as yet, of no insurrectionary organization similar to that of Lawrence in other parts of the Territory. The insurgents seem to be awaiting the result of the affair at that city. It is quite certain, however, that if my proclamation had not been issued and the troops moved to the vicinage of Lawrence, similar insurrectionary organizations, following the one in that city, would have been perfected throughout the Territory, and a forcible collision have become inevitable.

I send you a petition just received by me from a very large number of the settlers on the Shawnee lands, requesting me to take such steps as I may think advisable with a view to secure them the privilege of proving up their pre-emptions, and getting titles to their lands with as little delay as possible. They state that such is the universal desire of the settlers, and this I believe to be true. It is certainly the true policy of the government to accelerate the transfer of titles to their homes to the settlers of Kansas. Vexatious disputes about claims are thus terminated which otherwise would disturb the peace of the Territory, and the community of settlers becomes much more conservative when they have secured titles to their lands from the federal government. I deem the observance of this policy throughout Kansas, together with the speedy extinguishment of Indian titles, as a matter of vast importance, and whilst advancing the prosperity of the Territory, calculated in a high degree to promote the early, just, and peaceful settlement of the dangerous and difficult questions which have so long disturbed the repose of this community.

I am so incessantly occupied with official business that I have not time to prepare my despatches with that care and deliberation by which they ought to be distinguished.

With great respect and consideration, I am your obedient servant,

R. J. WALKER,
Governor of Kansas Territory.

Hon. LEWIS CASS,
Secretary of State.

GENERAL ORDER No. 1.

HEADQUARTERS KANSAS VOLUNTEERS,
(For the protection of the ballot box,)
Lawrence, July 18, 1857.

TO THE PEOPLE OF KANSAS: The convention at Topeka, on the 15th instant, passed the following resolution:

Resolved, That General James H. Lane be appointed by this convention, and authorized to organize the people in the several districts to protect the ballot boxes at the approaching elections in Kansas.

Now, therefore, in pursuance of the authority thus vested in me, I do earnestly request the people of Kansas to form companies in their various neighborhoods, towns, and settlements, and every man enroll himself in some one of the same; that when each company shall contain not less than thirty, nor more than eighty men, it elect a captain, one first and one second lieutenant, two sergeants, and two corporals; and that it make a perfect and complete roll of its officers and men in accordance with the printed form which will be transmitted from this office.

It is also desirable, and I hereby request that the captain of each company shall require a registry to be made of all persons in his neighborhood, town, or settlement, if any such there be, who shall refuse to enroll himself in said company, and transmit the same, with his company's roll, to this office.

When the aforesaid rolls shall be received, commissions for the officers will be promptly forwarded, after which requisitions for arms, signed by the company's officers, may be sent to the office of the quartermaster general.

Kansas expects every man to do his duty in this matter. The time has come for thorough organization and efficient action. The despotism which has been forced upon us must be overthrown. We must look to the ballot box as the instrumentality of our disenfranchisement, and prepare to defend that ballot box at any and every sacrifice against any and every attempt to violate its integrity.

The general staff, as organized this day, consists of M. F. Conway, adjutant general; E. B. Whitman, quartermaster general, and William A. Phillips, commissary general, each with an office in this city.

Correspondence may be conducted with any of these officers, and information, at all times, obtained from them in the line of their respective duties.

Signed at the office of the adjutant general this day.

J. H. LANE, *Commanding*.
By M. F. CONWAY, *Adjutant General K. V.*

GENERAL ORDER No. 2.

HEADQUARTERS KANSAS VOLUNTEERS,
(For the protection of the ballot box,)
Lawrence, July 20, 1857.

Whereas, the people of Kansas, in convention, at Topeka, on the 15th instant, did adopt the following resolution:

Resolved, That General James H. Lane be appointed by this convention, and authorized to organize the people in the several districts to protect the ballot boxes at the approaching elections in Kansas.

Now, therefore, in pursuance of the authority thus vested in me, and in order to facilitate the accomplishment of the object thus set forth, I do hereby establish divisions and brigades, and appoint superintendents of enrollment for the same, with instructions as follows, to wit:

Divisions.—*1st division.* Commencing at the mouth of the Kansas river, thence by the river west to a point where a line between range seventeen and eighteen crosses the same; thence south following said line to the line separating townships twenty-two and twenty-three south; thence east following the said line to the line between range twenty-one and twenty-two east; thence south to the southern boundary of Kansas; thence east to the Missouri State line; thence north along said line to the place of beginning.

2d division. Shall comprise all that district of country lying west of the 1st division, and south of the Kansas river.

3d division. Commencing at the mouth of the Kansas river, up the main channel of the Missouri river to a point where the base or boundary line between Kansas and Nebraska terminates at the same; thence south, following the line between ranges eighteen and nineteen, to the Kansas river; thence down the main channel of said river to the place of beginning.

4th division. Shall comprise all the region of country lying west of the 3d division and north of the Kansas river.

BRIGADES.

1st brigade, 1st division.—All that portion of the 1st division lying north of the 3d standard parallel shall constitute the 1st brigade.

2d brigade, 1st division.—All that portion of the 1st division lying south of the 3d standard parallel shall constitute the 2d brigade.

3d brigade, 2d division.—All that portion of the 2d division lying north of the 3d standard parallel shall constitute the 3d brigade.

4th brigade, 2d division.—All that portion of the 2d division lying south of the 3d standard parallel shall constitute the 4th brigade.

5th brigade, 3d division.—All that part of the 3d division lying south of the line separating townships six and seven shall constitute the 5th brigade.

6th brigade, 3d division.—All that part of the 3d division lying north of the division line between townships six and seven shall constitute the 6th brigade.

7th brigade, 4th division.—All that part of the 4th division lying east of the line separating ranges twelve and thirteen shall constitute the 7th brigade.

8th brigade, 4th division.—All that part of the 4th division lying west of the line separating ranges twelve and thirteen shall constitute the 8th brigade.

SUPERINTENDENTS OF DIVISIONS.

G. W. Deitzler, of Lawrence, has been appointed superintendent of enrollment for the 1st division.

J. H. Kasi, of Topeka, has been appointed superintendent of enrollment for the 2d division.

J. P. Root, of Wyandott, has been appointed superintendent of enrollment for the 4th division.

Robert Riddle, of Grasshopper Falls, has been appointed superintendent of enrollment for the 4th division.

SUPERINTENDENTS OF BRIGADES.

James E. Stewart has been appointed superintendent of enrollment for the 1st brigade.

H. H. Williams, of Osawatomic, has been appointed superintendent of enrollment for the 2d brigade.

P. W. Scudder, of Topeka, has been appointed superintendent of enrollment for the 3d brigade.

P. B. Plumb, of Emporia, has been appointed superintendent of enrollment for the 4th brigade.

H. Miles Moore, of Leavenworth, has been appointed superintendent of enrollment for the 5th brigade.

A. Lazarier, of Palermo, has been appointed superintendent of enrollment for the 6th brigade.

A. G. Patrick, of Grasshopper Falls, has been appointed superintendent of enrollment for the 7th brigade.

A. A. Griffin, of Manhattan, has been appointed superintendent of enrollment for the 8th brigade.

Superintendents of enrolment of divisions will exercise a general superintendence over the work of enrollment within the limits of their respective divisions, and attend especially to the same as far as practicable.

Superintendents of enrollment of brigades will visit personally the several precincts within the limits of their respective brigades as follows:

1st brigade.—Lawrence, Franklin, Fish's, Blanton's, Palmyra, Prairie city, Willow Springs, Bloomington, Washington creek, Benicia, Centropolis, Olathe, Walnut Grove, Shawnee, and Germania.

2d brigade.—Osawatomic, Paola, Peoria city, Shermanville, Moneka, Arthur's, Mapleton, Hyatt, Greeley, Ohio city, Chemung, Stanton, Upper Pottawatomie, and Fort Scott.

3d brigade.—Topeka, Washington, Lecompton, Tecumseh, Brown-

ville, Burlingame, Carbondale, Mission creek, Heberlings, Wabonsa, Hornick, Teandale, and Riley city.

4th brigade.—Emporia, Ottumwa, Burlington, Leroy, Neosho city, Humboldt, Agnes city, Mirriam Huntley's, on the Verdigris river, and Cofachique.

5th brigade.—Wyandott, Quindaro, Delaware, Leavenworth, Easton, Pleasant Hill, Alexandria, Salt Creek, and Jacksonville.

6th brigade.—Atchison, Doniphan, White Cloud, Iowa Point, Geary city, Ocena, and Captain Dean's town.

7th brigade.—Osawkee, Grasshopper Falls, Wyoming, Holton, Powhattan, Calhoun, Kansapolis, Sabatha, Leath's, and Plymouth.

8th brigade.—Manhattan, Ogden, Barry's, Blake's, Buchanan, Houston, Juniata, Condeley's, Whitesides, Randolph's, Marysville, Brown's store, Barrett's mills, west branch of Black Vermillion, St. George, Louisville, Jenkin's, McGuire's, America, Danasburg, Paden's mills, St. Mary's mission, and Richmond.

In addition to the above, the superintendents of enrollment are requested to visit all other places within their respective limits, and to take such steps, wherever they go, as may be necessary to secure the enrollment of the people into companies, as per general order No. 1, herewith transmitted. They are also requested to proceed at once to the performance of their duties.

The brigade superintendents will report with despatch to the superintendents of their respective divisions, and the latter will report to the adjutant general immediately upon the completion of their work.

Signed at the office of the adjutant general this day.

J. H. LANE, *Organizing.*

M. F. CONWAY,

Adjutant General K. T.

CAMP COOKE, NEAR LAWRENCE, KANSAS TERRITORY,
July 23, 1857.

SIR: I enclose herewith a copy of a letter received by me from Norman Eddy, esq., commissioner for the sale of the Delaware trust lands in this Territory, as also a copy of an accompanying statement of the register and receiver of the land office of the United States at Osawkee. A copy of your letter of the 21st instant to Mr. Eddy has also been communicated to me, from which I regret to learn that you had no troops then at your disposal at Fort Leavenworth for the desired purpose.

The authority in connexion with the use of the United States troops under your command for the preservation of the peace of this Territory, and the execution of the laws being vested in the governor of Kansas, and not in any other civil official here, as necessary to unity of action and success, I have duly considered the letters, of which copies are enclosed, and have come to the conclusion that it is my duty under the existing exigency to request you, at the earliest practicable period, to send at least twenty troops, so soon as you may

have that number available for such a purpose, to Osawkee, to aid the commissioner there in the safe custody and deposit of the public moneys in his charge.

To detach the troops now encamped near Lawrence would impair the moral effect of the present movement, and might be attended with the most disastrous consequences.

Acknowledging with great pleasure your enlightened appreciation of the importance of my mission, and your prompt and cordial cooperation heretofore, I am, most respectfully, your obedient servant,
R. J. WALKER.

Brevet Brig. Gen. W. S. HARNEY,
Comd'g. troops in Kansas, &c., &c.

OSAWKEE, July 22, 1857.

SIR: Upon my return from Lawrence to this place, and after fully conferring with the register and receiver for the sale of the Delaware trust lands, as to the safety of the public money arising therefrom, with their concurrence and advice I made a requisition upon Gen. Harney for a company of troops. A copy of Gen. Harney's answer is herewith enclosed.

From the following extract from the Commissioner of Indian Affairs' instructions to me it will be perceived that, in a contingency there referred to, I am directed to apply to the commanding officer at Fort Leavenworth for such military assistance as I may deem indispensably necessary "for the safe and proper conduct of the sales."

The numerous thefts perpetrated here daily—the unusual congregation of gamblers and other unprincipled characters upon and around the sale grounds, together with the rife reports in regard to an insurgent military organization, in my judgment, present a condition of affairs at this place requiring your consideration, if not your direct intervention.

I am told in the instructions mentioned that "the President will be requested to direct the Secretary of War to instruct the commanding officer at Fort Leavenworth, upon your (my) requisition, to furnish you (me) with such military assistance from the troops at that post as you (me) may deem indispensably necessary for the safe and proper conduct of the sales; of the propriety of making such a requisition you (me) must be the judge when the contingency shall happen seeming to demand it; it should only be made in the last alternative, and when the necessity therefor is apparent."

Believing that the alternative specified is not the one meant, when the "robbing" or other forcible act should precede the requisition for troops, but when a reasonable apprehension exists with the officers of sale that such an attempt will be made, and having, as we believe, such reasonable apprehension, we do not hesitate to further add that "the necessity" for a company or a force of at least twenty men is to us "apparent."

I therefore ask of your excellency that you will cause such military

assistance to be sent here, for the purpose indicated, at the earliest practicable period.

Very respectfully, your obedient servant,

NORMAN EDDY,

Comm'r sale Delaware Trust Lands.

P. S. There has already accumulated from the sales more than \$115,000, which will be increased by this day's sale to at least \$140,000, and at the conclusion of the same must reach over a half million.

Respectfully, &c.,

NORMAN EDDY, *Comm'r.*

His Excellency Gov. WALKER.

OSAWKEE, *K. T.*, July 22, 1857.

We fully concur with Mr. Eddy as to the importance of having a company of troops at this place for the purpose of guarding the large amount of public treasure now accumulating on our hands, and earnestly hope that your excellency will not feel it incompatible with your sense of duty to order a company at once to this place.

Very respectfully, your obedient servants,

J. W. WHITFIELD, *Register.*

DANL. WOODSON, *Receiver.*

His Excellency Gov. R. J. WALKER,

Lecompton, K. T.

HEADQUARTERS TROOPS SERVING IN KANSAS,

Fort Leavenworth, K. T., July 21, 1857.

SIR: Your letter of the 20th instant, asking that a company of United States troops be sent to Osawkee "for the safe and proper conduct of the sale" of Delaware lands, has this moment been received by General Harney, who directs me to say, in reply, that he has no troops at the present time which he can send, as all his disposable mounted force is now absent at Lawrence on the requisition of the governor of the Territory, and his infantry are on the march to Utah.

I am, sir, very respectfully, your obedient servant,

STEWART VAN VLIET,

Capt. Asst. Qr. M. A. Asst. Adjutant General.

NORMAN EDDY, Esq.,

Osawkee, K. T.

LECOMPTON, *K. T.*

We, the undersigned, most respectfully represent that we are settlers on the Shawnee lands, have erected our dwellings, and are cultivating the lands as far as we are able and our means will allow;

that we are actual bona fide occupants of the soil, intending to make our homes on this reserve, and, for that purpose, have settled on them in good faith ; would most earnestly ask that such steps be taken as your excellency may think advisable and proper to secure us the privilege of proving up our pre-emption and getting titles to our land, with as little delay as the circumstances will admit.

We would also add that these lands are nearly all occupied by actual settlers, and that it is the universal desire among all that some measure be taken that will give us the opportunity, so earnestly desired, of proving up and entering the land upon which we have settled.

J. B. HOVEY,
JOHN BECK,
B. H. STILES, and
119 others.

His Excellency Gov. R. J. WALKER.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, July 31, 1857.

SIR: I have received your letter of the 20th instant, and in reply have to state to you that that portion of it which relates to a proposed increase of the military force in Kansas has been referred to the Secretary of War, who will write you upon the subject to-day.

The instructions originally given to you, and those contained in the letter from this department of the 25th instant, are believed to be sufficiently full and comprehensive to meet any exigencies which may arise, so far as relates to the actual intervention of the troops in support of the civil authority.

These instructions, together with the principles of the bill organizing a territorial government for Kansas, mark out a policy so eminently just and right as to authorize the hope that their enforcement may lead to a successful accomplishment of your mission without a resort to military aid. If this hope should be disappointed I have only to repeat to you the assurance already given by direction of the President that the whole power at his disposal shall be exerted, if necessary, in order to maintain the authority of the law, and secure the protection of the people of Kansas in the free and independent decision of the exciting issues which now unhappily distract that Territory.

I am, &c.,

LEWIS CASS.

To. R. J. WALKER, Esq.,
Lecompton, Kansas.

Mr. Walker to Mr. Cass.

CAMP COOKE, NEAR LAWRENCE,
August 3, 1857.

SIR: I transmit herewith copies of communications just received from Brevet Major Armistead and Lieut. Merrill. It would appear from these letters that the Cheyenne Indians have escaped Colonel Sumner by a movement in his rear; that they have appeared "in force" at Thomas' claim, which is within sight of Fort Riley, have driven in all the settlers, committed several murders, and that an attack upon the station, which is not fortified, is hourly expected. There are now but forty regular troops (all infantry) at Fort Riley, with the wives and families of the officers and soldiers, many of whom are absent in the field. Under these circumstances, in view of the immediate aid requested by Major Armistead, Colonel Cooke, with my sanction, will start immediately with his entire command, with the exception of a few recruits left here to indicate my intended return to this point. I shall accompany Colonel Cooke on this expedition, deeming it my duty to be personally present with the command, to render any service in my power. The protection of the inhabitants of this Territory from an attack by a tribe of warriors, so numerous, hostile and formidable as the Cheyenne Indians, seems to me my first and immediate duty.

There has been no important change in the condition of affairs at Lawrence; but, according to the best information, the conservative party is increasing there. I deem it, however, a proper precaution to make known the necessity for the removal of the troops at this time from Lawrence, and the fact of their intended return here, if their insurrectionary government is not abandoned. No other insurgent governments have as yet been established in Kansas, as intended, in imitation of the example of Lawrence, and my proclamation seems to meet the entire approbation of the whole conservative party of the Territory. It is now, however, clearly ascertained that, but for this prompt movement of the troops to Lawrence, insurrectionary local governments, by towns, cities, and counties, would have been organized ere this throughout the Territory. The spirit of insurrection, of resistance to the laws, and to the territorial government, still pervades Kansas, and manifests itself in their newspapers, in violent harangues, in the enrollment and drilling of their troops, and in open threats for the use of the insurgent forces at the October election. Menaces, indeed, have been made in the most public manner, to drive the constitutional convention by force in September next from Lecompton. Under these circumstances it becomes my duty to renew my request, so often made, that two thousand regular troops, chiefly mounted men, should be sent immediately into Kansas, together with two batteries. The alienation of the conservative free State democrats of Kansas from the pro-slavery party here, occasioned by the violent assaults of what is falsely regarded here as the south upon me and my policy of a thorough union between the pro-slavery party and the conservative

democrats of Kansas, still continues to a great extent. These attacks of the southern ultras, with every possible exaggeration, are circulated with great activity among the people from the insurgent presses, which are very numerous, by their orators in public addresses, and even by messengers throughout the Territory, and at points where I have no adequate means of counteracting these calumnies. It is represented that, in consequence of my recommendation of submitting the constitution to a vote of the people, which is but a performance of my duty in carrying out our organic law, that the whole south denounces this policy, and that, therefore, it is hopeless to expect any settlement of the Kansas question in this manner. These misrepresentations answer the double purpose of inciting the insurgents to revolution, and withdrawing the free State democrats from my support, as my policy, it is urged, has now failed, in consequence of the opposition of the south. These assaults have produced no alienation from me of any portion of the pro-slavery party of Kansas, or in Missouri, where the facts are known and appreciated. No candid man here will deny that the only available policy for the just and pacific settlement of the Kansas question, as foreshadowed in my inaugural address, and repeated in various speeches at Topeka, Big Springs, Paoli, and elsewhere, would have thoroughly cemented the union between the pro-slavery party and the conservative democrats here, and proved completely successful. As it is, I do not despair of success; but it will require more time and especially a longer interval between the date of the submission of the constitution by the convention and the actual vote of the people upon its ratification or rejection. The settlers within the organized counties in the southwestern part of this Territory have informed me that the Osage Indians of Kansas have assumed a most alarming attitude; have committed various depredations upon them, and even threatened their lives. They ask the aid of the regular troops; but I have none that can be now spared to send to their assistance. The Osages are represented as a most warlike tribe, armed with rifles, have repeatedly, with far inferior numbers, defeated the Camanches, and their estimated number of warriors is nineteen hundred. It is quite evident that, if the lives and property of the settlers of the west, invited to their new homes by the laws and wise policy of our government, scattered along our vastly extended frontier, are to be protected from savage incursions, a large addition by Congress to our present mounted force has become necessary. To these causes for an increased mounted force may be added the Kansas and Mormon difficulties. Placed here by the government in a most important and responsible position, in a frontier Territory, menaced with internal convulsion, and surrounded by hostile savage tribes, compelled most reluctantly to withdraw the troops temporarily from Lawrence at this inauspicious period, and perceiving the dangers and sacrifices, including loss of life and property, to which the western settlers are constantly subjected for want of an adequate mounted force, I trust the views submitted by me regarding the augmentation of this important arm of our service may not be regarded

as presenting topics unconnected with the discharge of my official duties.

With great respect and consideration, your obedient servant.

R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State.

FORT RILEY, KANSAS TERRITORY,
August 1, 1857.

SIR: The Cheyenne Indians are in force about eight miles above this post; they have driven in the settlers. If you can come up, do so at once, and as quick as you can.

Very respectfully, your obedient servant,

L. A. ARMISTEAD,
Brevet Major 6th Infantry Comd'g.

The OFFICER COMD'G DETACH. AT OSAWKEE.

OSAWKEE, *August 2, 1857.*

SIR: I write you in great haste, enclosing the letter just received from Major Armistead. The express man left Fort Riley last night at ten o'clock, and says that they were hourly expecting an attack. The Indians had committed several murders above the fort, in the vicinity of Thomas' claim, and driven in all the settlers, run off their stock, &c. I do not consider that the strength of my detachment and the difference of the few hours that it would make in my arrival there and the arrival of a strong force from your camp would justify my leaving here under the circumstances, as the presence of a force here seems necessary, and my leaving here is strongly objected to by the officers of the land office. The express goes on at once into the fort, and I will, by it, inform General Harney that I sent you the enclosed letter.

I have the honor to be, in great haste, your obedient servant,

LEWIS MERRILL,
*Second Lieutenant 2d Dragoons,
Commanding detachment at Osawkee.*

The COMMANDING OFFICER AT LAWRENCE.

Mr. Walker to Mr. Cass.

LECOMPTON, K. T., *August 18, 1857.*

SIR: On the 3d of August last, in pursuance of official communications from Brevet Major Armistead and Lieutenant Merrill, Lieu-

tenant Colonel Cooke, with my advice and sanction, proceeded at once to Fort Riley with the troops under his command. He started within half an hour after the information first reached us at Camp Cooke and Lawrence, and arrived at the fort in about 28 hours, including the delay in crossing the Kansas river. This, according to my information, was a march rarely equalled, with so large a body of troops, in the history of military movements.

I was delayed at Camp Cooke and Lecompton for six hours in preparing dispatches and transacting official business, and made the trip from Camp Cooke to Fort Riley by way of Manhattan, being about 103 miles, in 22 hours. We rested about four hours on the way, which made the time actually occupied in travelling this distance about 18 hours. I was accompanied by my efficient aids, Captain W. S. Walker and Lieutenant E. A. Carr. As we approached the fort, until within a distance of about 18 miles, the reports of the murders already committed, and of a meditated attack by the Cheyennes, increased in exaggeration, until their numbers were estimated by thousands. We reached the fort about ten minutes in advance of Colonel Cooke and his dragoons, and had an immediate interview with Brevet Major Armistead, the officer in command at Fort Riley, and learned from him all the particulars.

It appears that the inhabitants west of Fort Riley had fled there for protection, and the patriotic settlers east of the fort had mustered on their own accord, hastily armed and mounted, to aid in the defence of the fort and the settlements, and, if necessary, to advance against the Indians. The Pottawattomies, in considerable numbers, and headed by their chief, also hastily armed and mounted, had repaired to the fort for the same purpose, and, in considerable force, proceeded against the Cheyennes, accompanied by a portion of the Delawares and their chief.

I had a personal interview with Wewassa, the chief of the civilized bands of Pottawattomies, who appeared to be an intelligent and patriotic man. I presented him with a revolver and some ammunition, complimented him on his zeal and patriotism, and received his assurance that if the Cheyennes were within a reasonable distance they should be met and punished.

After conferring with Colonel Cooke and Major Armistead, we all came to the conclusion that the Cheyennes were too distant, and their position too uncertain, to be pursued by our troops.

No censure can attach to the gallant officer Brevet Major Armistead, commanding at Fort Riley, and who received two brevets for brilliant services in the field during the war with Mexico. He did not act upon the reports of the first settlers who came in, although strongly urged to send immediately for reinforcements, as he had only half a company of infantry, but waited until intelligence was brought him by a most respectable witness, who professed to have seen the Cheyennes in movement but a few miles distant from the fort. It now appears that this witness mistook the Pottawattomies for the Cheyennes, between whom an encounter had taken place on Smoky Hill creek, about 60 miles west of Fort Riley, in which one

Pottawattomie was killed and one wounded, a woman and child taken prisoners, and three Cheyennes killed.

Major Armistead mounted a few of his infantry company, and made a reconnoissance several miles from the fort, from which he became satisfied that the danger was greatly exaggerated. Upon his return to the fort he despatched a messenger with an open letter to contradict his previous intelligence, who, taking the road on the north side, failed to meet Colonel Cooke with the advance, but intercepted the main body under Major Horne when about forty miles from Lawrence. Brevet Major Armistead, under all the circumstances, would, in my opinion, have been guilty of a great dereliction of duty if he had not acted as he did on this occasion. Nor can any blame attach to Lieutenant Merrill, who acted not only on the despatch from Major Armistead, but also upon the intelligence communicated verbally by the messenger. Although the Cheyennes could not be encountered by Colonel Cooke and his troops, yet he indicated his willingness, by his prompt and immediate movement, to perform his duty and protect the fort and the settlers, who were all greatly gratified by the activity and zeal displayed by this gallant and energetic officer.

After remaining a few days with the troops at the fort, the colonel returned with them to Lawrence, where they are now stationed.

After resting a day at the fort, I returned to Lecompton by way of Manhattan where we had a large meeting, which was fully addressed by me on the great questions now agitating the people of this Territory, and, I hope, not without good effects.

No material change has taken place since my last despatch in the condition of affairs at Lawrence. No ordinances have as yet been passed, so far as I can learn, by their insurgent government, and the conservative party seem to be increasing there.

No similar organizations, either in towns, cities, or counties, as was intended by the Topekans, have as yet been made in Kansas. But such insurrectionary local governments would, long ere this, have been organized throughout the Territory, but for this movement upon Lawrence and my proclamation.

I have received your communication of the 25th of July last, approving my course in regard to Lawrence, which is very gratifying; as also a letter from the Secretary of War of the 31st of the same month, manifesting his just appreciation of the difficulties in Kansas. The two companies of the tenth infantry to which the Secretary of War refers have, I understand, started for Utah, and therefore, I presume, will not be available for service in this Territory. The six companies commanded by Lieutenant Colonel Johnson cannot reach here, it is supposed, until some time after the first Monday of October next, when the election for the territorial legislature and other officers occurs in Kansas. This is a most important period in the history of this Territory. The insurgent military organization under General Lane is still progressing. Arms are being supplied and his troops drilled for action. We are threatened with the seizure of the polls in October, at various points, by these insurgent forces. When it is remembered that the Topeka party claim to outnumber their opponents at least ten to one, the pretext of assembling these forces to

protect the polls is evidently most fallacious. I have now but six hundred troops here, at least one hundred of whom must remain in garrison at Fort Leavenworth and Fort Riley, leaving about five hundred available to preserve the peace of the Territory now menaced at various points. A much larger force would be important to overawe the rebellion and prevent, it is hoped, the shedding of blood, and I am sure they will be furnished by the Secretary of War at the earliest period in his power. In the mean time I am exerting myself by all proper means, by reason and argument, to arrest the projected insurrectionary movement and violence.

If we can have a full, fair, and free expression of the will of the people of the Territory, voting in October in obedience to the laws, much will have been accomplished towards securing the peace of Kansas, whichever party may prevail in the election. Heretofore, it is contended, there never has been a fair election, and the respective parties it is alleged, have never measured strength at the ballot box. Should a full, fair, and peaceful election now be had by the legal voters, in accordance with the territorial laws, the minority, in my opinion, will submit to the great principle of the Constitution as embodied in the Kansas and Nebraska bill, that the majority of the people must govern.

Whatever be the result of the October election, should it be conducted in a peaceful and legal manner, it will aid the constitutional convention in bringing out the votes of the people of all parties (under such just regulations as may be prescribed by that body) in voting for or against the adoption of the constitution.

On the whole, I entertain strong hopes of a peaceful, and, I trust, conservative settlement of the difficulties of Kansas. I repeat the opinion expressed in a former communication, that to order out the local militia at this time would precipitate and render certain a most sanguinary and disastrous civil war.

Most respectfully, your obedient servant,

R. J. WALKER.

Hon. LEWIS CASS, *Secretary of State*

Mr. Walker to Mr. Cass.

LECOMPTON, K. T., *August 19, 1857.*

SIR: A serious controversy has arisen in this Territory as to the right of suffrage at the election in October next, under the territorial laws and those of Congress. That question is this: whether a territorial tax must be paid as a necessary qualification for a voter at this election? The laws upon which the question depends are:

1st. The organic act of Congress in relation to the Territories of Kansas and Nebraska, passed on the 30th May, 1854.

2d. The act of the territorial legislature of Kansas, passed on the 29th August, 1855, entitled, "An act to regulate elections."

3d. The act of the same legislature of the 19th of February, 1857,

at its second session, entitled "An act to provide for the taking a census and election for delegates to a convention," and—

4th. An act passed February 20, 1857, by the same legislature, entitled "An act to define and establish the council and representative districts for the second legislative assembly and for other purposes."

Although I cannot doubt that you have printed editions of all the territorial laws, yet I send you copies of these three acts to prevent any possibility of inconvenience or mistake.

It will be observed, that subject, perhaps, to certain provisos, the organic law of Congress, whilst prescribing the qualifications for voters at the "first election," declare that "the qualification of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly."

The power, then, to prescribe the qualification of voters in all elections but the first being vested in the territorial legislature of Kansas, the question is, what are the qualifications prescribed by them? On this subject I would call your attention, first, to the eleventh section of the before mentioned territorial law of the 29th of August, 1855, prescribing, among other qualifications of voters, the payment of a territorial tax. The other most important law on this subject is the act of the territorial legislature, above referred to, of the 20th February, 1857, the fifth section of which is in these words: "Every *bona fide* inhabitant of the Territory of Kansas, being a citizen of the United States, over the age of twenty-one years, who shall have resided six months in said Territory before the next general election for members of the council and house of representatives, and no other person whatever shall be entitled to vote at any general election hereafter to be held in this Territory: *Provided, however,* That nothing in this act contained shall be considered to apply to, or affect in any manner, the provisions of an act, entitled, 'An act to provide for taking the census and election for delegates to a convention.'"

Under these circumstances, the question is, must a territorial tax be paid as a necessary qualification for a voter at the election in October?

This subsequent law appears to me complete in itself, declaring on its face what, and what only, are all the qualifications required for a voter, without reference to any preceding act of the territorial legislature. The language is, that "every resident, &c., shall be entitled to vote at any general election hereafter to be held in this Territory."

According to my view, then, all six months residents, possessing the qualifications prescribed by this last mentioned act, have a right to vote at the October election, and this appears to me too clear for doubt or controversy. In fact, it does not seem to me to rise to the dignity of a serious question, but yet it is one which now convulses this Territory, and threatens it with civil war from conflicting constructions by various county officers, who are judges of the election. It is made the pretext for a most extensive military organization by the Topeka party in this Territory, who contend, not only that they can vote without paying the territorial tax, but that they can vote under the organic law of Congress; from which latter position I entirely dissent, though I believe that the payment of a territorial tax is not a pre-requisite for the exercise of the right of suffrage. To

enforce, however, this right, and others to which they have no claim, this Topeka party have their companies everywhere organized and drilled, and troops, I am informed, are being brought from other States, and threats are made to seize the polls at the October election by force.

With the small force of the United States troops, amounting to less than five hundred men, now at my command, it would be impossible to protect the polls throughout the Territory. Under these circumstances, it becomes a matter of extreme importance that an exposition of the law as regards the right of suffrage should be made with as little delay as practicable. I desire, therefore, as speedily as possible, the clear and explicit instructions of the government on the subject. I desire this, not because of any wish to evade the responsibility imposed upon me, but, for the first time since I have been in Kansas, I ask the aid of the opinions and instructions of the government, which may carry with them such moral force as will probably prevent a sanguinary and disastrous civil war in this Territory, rendering impracticable, at least for a long period of time, any pacific settlement of the Kansas question.

The language of the act of the 20th of February, 1857, seems to me clear and explicit. "Every *bona fide* inhabitant," &c., "shall be entitled to vote." This appears to me to be a statutory provision prescribing all the qualifications intended by the law. When the last law says that "every inhabitant," &c., shall be entitled to vote after a six months' residence, if he be a citizen of the United States, can we interpolate into this provision the payment of a territorial tax? That was a requisition in the prior law of a preceding legislature; but is it not clearly repugnant to this subsequent law, which prescribes in and of itself all the qualifications required for a voter?

I have no books or authorities here to which to refer, but, according to my recollection, the following principles, not only of the common law, but of the construction of statutes, in the several States, have been clearly settled, and are sanctioned now by universal acquiescence:

First. That in all cases of doubt or ambiguity, the presumption is in favor of the right of suffrage, which is the most sacred right of an American citizen, and which lies at the base of all our institutions. That is, if the words are doubtful, the construction must be in favor of this right, and it cannot be taken away, except by the express language of the law, or by irresistible implication.

Second. That it has been adopted as an universal of practice and construction in all the States, that where there are two State constitutions, and the first prescribes three qualifications for a voter and the second but two, the last has full operation, without any reference to the first. So, also, in regard to State statutes. If a prior law prescribes three qualifications for voters, and a subsequent law only two, the second law is to have full force and effect, without any reference to the first whatever. This is the general rule; but when, as in this case, the second law declares, in most explicit terms, that every citizen, as described in the last act, shall be permitted to vote, it is the only law applicable to the subject. It declares, in clear and explicit terms, the will of the legislature of that date.

It is repugnant in its very terms to any preceding law requiring other qualifications, and has full force and effect without reference to any preceding act whatever.

I have spoken of the convention law, because it is the one immediately preceding the act in question, and because it is referred to expressly in that act. That convention law prescribes certain qualifications for voters, but among these is not enumerated the payment of a territorial tax. No one has ever supposed that the payment of such a tax could be required as a qualification for a voter in electing delegates to the constitutional convention; yet if the principle now suggested could apply to this act, to wit: that the qualification of voters by preceding laws must apply in all succeeding enactments unless expressly repealed, then it would follow that the election of delegates to the constitutional convention is entirely illegal, for but few if any of the voters for such delegates had then paid this territorial tax, and consequently, by such a construction, the constitutional convention would have been chosen without authority of law, and would thus be deprived of all legal as well as of all moral force in this Territory. This would be most disastrous, for upon the wisdom and patriotism of that convention may depend, not only the pacification of this Territory, but the harmony of the Union, and possibly the existence of the government.

Whatever unfortunate questions may exist as regards the exclusion of voters and disfranchisement of counties in the choice of delegates to this convention, if to this can be superadded any serious difference as to the legal qualifications of the voters by whom the convention was chosen, I fear that all hope of a peaceful settlement of the Kansas question in this way will be terminated.

Permit me, then, most earnestly to request, at the earliest practicable period, the views of the government as to the question whether the payment of a territorial tax is among the necessary qualifications of a voter at the next October election, and also whether voters must not possess the several qualifications prescribed by the act of the 20th February, 1857.

I will, of course, desire to promulgate at once throughout the Territory the views of the government on this subject, to aid me in securing a peaceful obedience to the laws.

As a portion of the Topeka party also insist, without, in my opinion, any pretext of authority, that all who are permitted to vote under the organic act of Congress can give their suffrages in October next, although excluded by the express provisions of the act of the 20th of February, 1857, I desire, at the earliest practicable period, clear and explicit instructions on that point also.

It is not in my power to predict the result of the election in October next. That result depends on the success of the policy, as well in regard to the territorial delegate as to the territorial legislature, involved in a complete union of the conservative democrats of the north with the pro-slavery party, to be effected by the submission of the constitution to the people. If this union can now be effected, we shall succeed; if not, we shall encounter in that election a most disastrous failure.

The attacks made upon this policy by my southern opponents, founded, as I am sure they must be, upon an insufficient knowledge of the facts, have already withdrawn from union with us a portion of our conservative citizens from the north. That withdrawal is not based upon any change of opinion upon their part, but mainly upon the arguments presented to them by the Topeka party, that this policy, as they say, of a union between the pro-slavery party and the conservative democrats is condemned in the south; and that even if we could send to Congress a good, conservative constitution, a union of the republicans with our opponents in the south would cause its defeat in Congress. This Topeka party thus argue that this policy is sure to fail, either here or in Congress, and that we ought not, therefore, to be supported by the conservative free State democrats. That we should have carried the election in October most triumphantly but for this opposition from the south, founded, as I believe, on a total misapprehension of the facts of the case, is most certain.

But whatever the result of that contest may be, if, as I still hope and confidently trust the constitutional convention, which assembles in September next, will do their duty in a just and patriotic spirit, I believe most firmly that we shall still succeed, although it may require longer time and greater exertions.

Most respectfully, your obedient servant,

R. J. WALKER.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, August 23, 1857.

SIR: By direction of the President, I enclose for your information the copy of a letter recently addressed to him by certain citizens of Connecticut on the subject of affairs in Kansas, together with a copy of his reply. I am, &c.,

LEWIS CASS.

ROBERT J. WALKER, Esq.,
Governor of the Territory of Kansas, Leecompton.

His Excellency JAMES BUCHANAN,
President of the United States.

The undersigned, citizens of the United States, and electors of the State of Connecticut, respectfully offer to your excellency this their memorial:

The fundamental principle of the Constitution of the United States and of our political institutions is, that the *people shall make their own laws and elect their own rulers.*

We see with grief, if not with astonishment, that Governor Walker

of Kansas openly represents and proclaims that the President of the United States is employing through him an army, one purpose of which is *to force the people of Kansas to obey laws not their own, nor of the United States*, but laws which it is notorious, and established upon evidence, they never made, and rulers they never elected.

We represent, therefore, that by the foregoing your excellency is openly held up and proclaimed, to the great derogation of our national character, as violating in its most essential particular the solemn oath which the President has taken *to support the Constitution of this Union*.

We call the attention further to the fact that your excellency is, in like manner, held up to this nation, to all mankind, and to all posterity, in the attitude of "*levying war against [a portion of] the United States*," by employing arms in Kansas to uphold a body of men, and a code of enactments purporting to be legislative, but which never had the election, nor sanction, nor consent of the people of the Territory.

We earnestly represent to your excellency that we also have taken the oath to obey the Constitution; and your excellency may be assured that we shall not refrain from the prayer that Almighty God will make your administration an example of justice and beneficence, and with His terrible majesty *protect our people and our Constitution*.

Nathaniel W. Taylor,
Theodore D. Woolsey,
Henry Dutton,
Charles L. English,
J. H. Brochway,
Eli W. Blake,
Eli Ives,
B. Silliman, jr.
Noah Porter,
Thomas A. Thatcher,
J. A. Davenport,
Worthington Hooker,
Philos Blake,
E. K. Foster,
C. S. Lyman,
John A. Blake,
Wm. H. Russell,
A. N. Skinner,
Horace Bushnell,
John Boyd,
Chas Robinson,
Henry Peck,

David Smith,
J. Hawes,
James F. Babcock,
G. A. Calhoun,
E. R. Gilbert,
Leonard Bacon,
H. C. Kingsley,
B. Silliman,
Edward C. Herrick,
Charles Ives,
Wm. P. Eustis, jr.,
Alex. C. Twining,
Josiah W. Gibbs,
Alfred Walker,
James Brewster,
Stephen G. Hubbard,
Hawley Olmstead,
Seagrove W. Magill,
Amos Townsend,
Timothy Dwight,
David M. Smith,

PRESIDENT BUCHANAN'S REPLY.

WASHINGTON CITY, August 15, 1857.

GENTLEMEN: On my recent return to this city, after a fortnight's absence, your memorial, without date, was placed in my hands,

through the agency of Mr. Horatio King, of the Post Office Department, to whom it had been entrusted. From the distinguished source whence it proceeds, as well as its peculiar character, I have deemed it proper to depart from my general rule in such cases, and to give it an answer.

You first assert that "the fundamental principle of the Constitution of the United States and of our political institutions is, that the people shall make their own laws and elect their own rulers." You then express your grief and astonishment that I should have violated this principle, and through Governor Walker have employed an army, "one purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States, but laws which it is notorious, and established upon evidence, they never made, and rulers they never elected." And, as a corollary from the foregoing, you represent that I am "openly held up and proclaimed, to the great derogation of our national character, as violating in its most essential particular the solemn oath which the President has taken to support the Constitution of this Union."

These are heavy charges, proceeding from gentlemen of your high character, and, if well founded, ought to consign my name to infamy. But in proportion to their gravity, common justice, to say nothing of Christian charity, required that, before making them, you should have clearly ascertained that they were well founded. If not, they will rebound with withering condemnation upon their authors. Have you performed this preliminary duty towards the man who, however unworthy, is the Chief Magistrate of your country? If so, either you or I are laboring under a strange delusion. Should this prove to be your case, it will present a memorable example of the truth that political prejudice is blind even to the existence of the plainest and most palpable historical facts. To these facts let us refer.

When I entered upon the duties of the Presidential office, on the 4th of March last, what was the condition of Kansas? This Territory had been organized under the act of Congress of 30th May, 1854, and the government in all its branches was in full operation. A governor, secretary of the Territory, chief justice, two associate justices, a marshal, and district attorney had been appointed by my predecessor, by and with the advice and consent of the Senate, and were all engaged in discharging their respective duties. A code of laws had been enacted by the territorial legislature; and the judiciary were employed in expounding and carrying these laws into effect. It is quite true that a controversy had previously arisen respecting the validity of the election of members of the territorial legislature and of the laws passed by them; but at the time I entered upon my official duties Congress had recognized this legislature in different enactments. The delegate elected to the House of Representatives, under a territorial law, had just completed his term of service on the day previous to my inauguration. In fact, I found the government of Kansas as well established as that of any other Territory. Under these circumstances, what was my duty? Was it not to sustain this government? to protect it from the violence of lawless men, who were determined either to rule or ruin? to prevent it from being overturned by force?—in

the language of the Constitution, to "take care that the laws be faithfully executed?" It was for this purpose, and this alone, that I ordered a military force to Kansas, to act as a *posse comitatus* in aiding the civil magistrate to carry the laws into execution.

The condition of the Territory at the time, which I need not portray, rendered this precaution absolutely necessary. In this state of affairs, would I not have been justly condemned had I left the marshal, and other officers of a like character, impotent to execute the process and judgments of courts of justice established by Congress, or by the territorial legislature under its express authority, and thus have suffered the government itself to become an object of contempt in the eyes of the people? And yet this is what you designate as forcing "the people of Kansas to obey laws not their own, nor of the United States," and for doing which you have denounced me as having violated my solemn oath. I ask, what else could I have done, or ought I to have done? Would you have desired that I should abandon the territorial government, sanctioned as it had been by Congress, to illegal violence, and thus renew the scenes of civil war and bloodshed which every patriot in the country had deplored? This would, indeed, have been to violate my oath of office, and to fix a damning blot on the character of my administration.

I most cheerfully admit that the necessity for sending a military force to Kansas to aid in the execution of the civil law reflects no credit upon the character of our country. But let the blame fall upon the heads of the guilty. Whence did this necessity arise? A portion of the people of Kansas, unwilling to trust to the ballot box, the certain American remedy for the redress of all grievances, undertook to create an independent government for themselves. Had this attempt proved successful, it would, of course, have subverted the existing government, prescribed and recognized by Congress, and substituted a revolutionary government in its stead. This was a usurpation of the same character as it would be for a portion of the people of Connecticut to undertake to establish a separate government within its chartered limits, for the purpose of redressing any grievance, real or imaginary, of which they might have complained against the legitimate State government. Such a principle, if carried into execution, would destroy all lawful authority and produce universal anarchy.

I ought to specify more particularly a condition of affairs, which I have embraced only in general terms, requiring the presence of a military force in Kansas. The Congress of the United States had most wisely declared it to be "the true intent and meaning of this act (the act organizing the Territory) not to legislate slavery 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 in their own way, subject only to the Constitution of the United States."

As a natural consequence, Congress has also prescribed, by the same act, that when the Territory of Kansas shall be admitted as a State, it "shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

Slavery existed at that period and still exists in Kansas, under the Constitution of the United States. This point has at last been finally decided by the highest tribunal known to our laws. How it could ever have been seriously doubted is a mystery. If a confederation of sovereign States acquire a new territory at the expense of their common blood and treasure, surely one set of the partners can have no right to exclude the other from its enjoyment, by prohibiting them from taking into it whatsoever is recognized to be property by the common Constitution. But when the people, the *bona fide* residents of such territory, proceed to frame a State constitution, then it is their right to decide the important question for themselves whether they will continue, modify, or abolish slavery. To them, and to them alone, does this question belong, free from all foreign interference.

In the opinion of the territorial legislature of Kansas, the time had arrived for entering the Union, and they accordingly passed a law to elect delegates for the purpose of framing a State constitution. This law was fair and just in its provisions. It conferred the right of suffrage on "every *bona fide* inhabitant of the Territory;" and, for the purpose of preventing fraud, and the intrusion of citizens of near or distant States, most properly confined this right to those who had resided therein three months previous to the election. Here a fair opportunity was presented for all the qualified resident citizens of the Territory, to whatever organization they might have previously belonged, to participate in the election, and to express their opinions at the ballot box on the question of slavery. But numbers of lawless men still continued to resist the regular territorial government. They refused either to be registered or to vote; and the members of the convention were elected, legally and properly, without their intervention. The convention will soon assemble to perform the solemn duty of framing a constitution for themselves and their posterity; and in the state of incipient rebellion which still exists in Kansas, it is my imperative duty to employ the troops of the United States, should this become necessary, in defending the convention against violence whilst framing the constitution, and in protecting the "*bona fide* inhabitants" qualified to vote under the provisions of this instrument in the free exercise of the right of suffrage when it shall be submitted to them for their approbation or rejection.

I have entire confidence in Governor Walker that the troops will not be employed except to resist actual aggression or in the execution of the laws, and this not until the power of the civil magistrate shall prove unavailing. Following the wise example of Mr. Madison towards the Hartford convention, illegal and dangerous combinations, such as that of the Topeka convention, will not be disturbed, unless they shall attempt to perform some act which will bring them into actual collision with the Constitution and the laws. In that event they shall be resisted and put down by the whole power of the government. In performing this duty I shall have the approbation of my own conscience, and, as I humbly trust, of my God.

I thank you for the assurance that you will "not refrain from the prayer that Almighty God will make my administration an example of justice and beneficence." You can greatly assist me in arriving at

this blessed consummation by exerting your influence in allaying the existing sectional excitement on the subject of slavery, which has been productive of much evil and no good, and which, if it could succeed in attaining its object, would ruin the slave as well as his master. This would be a work of genuine philanthropy. Every day of my life I feel how inadequate I am to perform the duties of my high station without the continued support of Divine Providence; yet, placing my trust in Him, and in Him alone, I entertain a good hope that He will enable me to do equal justice to all portions of the Union, and thus render me an humble instrument in restoring peace and harmony among the people of the several States.

Yours, very respectfully,

JAMES BUCHANAN.

Rev. NATHANIEL W. TAYLOR, D. D.

Rev. THEODORE D. WOOLSEY, D. D., LL. D.

Hon. HENRY DUTTON.

Rev. DAVID SMITH, D. D.

Rev. J. HAWES, D. D., and others.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, September 1, 1857.

SIR: Your letter of the 18th ultimo has been received at this department.

As I have already assured you, the President is determined that a sufficient military force shall be stationed in Kansas, and placed at your disposal, to resist every attempt which may be made to oppose by violence the execution of the laws, and to disturb the peace and good order of society. Circumstances connected with the expedition to Utah, and the Indian disturbances which have broken out at various points upon the frontier, have occasioned a greater reduction of the military force in Kansas than had been anticipated. But measures have been taken to send on additional troops, and these measures will be promptly executed. It is confidently believed that before the first Monday of October, the day of election, there will be subject to your orders a military force fully adequate to all the purposes required. The Secretary of War has announced these arrangements to you by telegraph to-day. I learn from him that, in addition to the four companies now in Kansas, eighteen companies are on the march for that Territory, and that fourteen other companies have been ordered for the same destination, making thirty-six companies in the whole, and comprising a force of about two thousand men. I cannot anticipate a state of things which can render a greater force than this necessary to the assertion of the supremacy of the law in Kansas.

I am, &c.,

LEWIS CASS.

ROBERT J. WALKER, Esq.,

Governor of the Territory of Kansas, Leecompton.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, September 2, 1857.

SIR: I have received your letter of the 19th ultimo, and have submitted it to the President for his consideration. He has instructed me to communicate his views upon the subjects therein referred to.

You express the decided opinion that the Territory of Kansas is now threatened with civil war, and that the danger results from the conflicting constructions which are given to the laws regulating the qualifications of voters, and which may be forcibly maintained at the polls. And you consider it very important that the opinion of the President should be communicated to you that you may make it known to the people of the Territory, in the confident persuasion that such a measure would exert a salutary influence, which would probably "prevent a sanguinary and disastrous civil war."

This appeal, coming, as it does, from the chief magistrate of the Territory, so well qualified by his position and by his personal and official character to form a correct estimate of the impending danger, and of the proper means to avert it, has engaged the earnest attention of the President, and he has examined with care the facts and considerations presented by you.

There are two points upon which you desire the instructions of the President. The first is, whether a territorial tax must be paid to entitle a person to vote at the election in October. And the second is, whether a person can vote under the organic act of Congress establishing the Territory, although excluded by the express provisions of the territorial act of February 20, 1857. Your own opinion is decidedly expressed that the payment of a tax is not required as a qualification, and that the territorial act legally regulates the right of suffrage.

Your application presents very grave considerations. The free exercise of the elective franchise is at all times an object peculiarly dear to the American people. It should be approached with great caution. The responsible relations which exist between the President and Kansas, and between yourself and that Territory, can be most usefully maintained by carefully acting within the clearly defined sphere prescribed to both these executive officers.

It is the duty of the President to take care that the laws are faithfully executed. He is an executive, not a judicial officer, and he has no power to declare authoritatively who shall not vote under the laws of Kansas. By the territorial act of August 29, 1855, to regulate elections, this power is conferred upon the judges of election "in each county or voting precinct," and these judges are appointed by the county commissioners and not by the governor. In no case of a contested election, under the act, is the governor authorized to act as a judge in any stage of the proceedings. The wise and wholesome jealousy against executive interference, so consonant with the spirit of our institutions, is clearly shewn in the provisions of the act. Indeed, there is but one case in which the governor has been authorized even

to issue a proclamation, and that is, "should any two or more persons receive an equal number of votes" for the same office. Cases of contested elections for members of the legislative assembly are to be decided by the respective houses; for probate judges, by the proper district courts; and for sheriffs, county commissioners, and clerks of probate courts, by the respective probate courts. Thus, the governor seems to have been excluded from any participation in the conduct of elections. It is his duty, required as he is to see that the laws of the Territory are faithfully executed, to take care that the elections shall be free and fair, and to resist whatever violence may be employed to prevent any individual from going to the polls and having his claim to vote decided by the judges; but this decision, whatever it may be, is final so far as the executive is concerned.

There is, notwithstanding, one point of view in which it may be proper for the Executive of the United States to express an opinion upon the questions you have submitted.

The Territory of Kansas is in a peculiar condition. By your statement—and possessing as you do the best means of information, your views, in the opinion of the President, are entitled to great weight—it is in a state of incipient rebellion, with an organized military force prepared to resist the authority of the United States. It may, therefore, become necessary to use the troops placed at your disposal, not only to aid as a *posse comitatus* in executing the laws, but also to suppress an insurrection. Surely, under these circumstances, if the expression of an opinion in advance of his action, and it may be instead of it, which the President honestly entertains, will have a direct effect in preventing a civil war in Kansas, he cannot be justly censured for attempting, by such an expression of opinion, to avert that calamitous result.

The danger you anticipate arises, as you observe, from the apprehension of a portion of the citizens of Kansas that they will be excluded from the privilege of voting because they have not paid a territorial tax. Now, the President, as well as every member of his cabinet, concurs in opinion with you that the payment of such tax is not required as a qualification to vote. He and they entertain not a doubt that the fifth section of the act of February 20, 1857, is complete in itself, and prescribes all the qualifications required of a voter, and among these the payment of a territorial tax is not included. They are also firmly convinced that no person whatever not possessing these qualifications, notwithstanding he may possess the qualifications prescribed for voters by the organic act of Congress of May 30, 1854, has any just claim to the elective franchise.

In communicating this opinion, the President has no idea, as I have already stated, that it can have any legal effect in determining the qualifications of individual voters in the Territory, and he only expresses it in deference to your inquiry, and for the single reason which I have just indicated.

I am, sir, &c.

LEWIS CASS.

ROBERT J. WALKER, Esq.,
Governor of the Territory of Kansas, Leecompton.

Mr. Walker to Mr. Cass.

LEAVENWORTH, KANSAS TERRITORY,
September 26, 1857.

SIR: I have the honor to enclose herewith several printed copies of my address to the people of Kansas, on the subject of the qualification of voters at the election to be held in this Territory on the first Monday of October next. This address, supported as it is by the moral force of the concurring opinion of the President and all his cabinet, so far as intelligence has been received from any portion of the Territory, has produced a most salutary impression upon citizens of all parties, and will tend greatly to secure a fair and peaceful election. In the absence of such a communication, numerous and distant as are the several counties and voting precincts of Kansas, it would have been impossible, even with the aid of the troops, to have prevented a seizure of the polls at many points, leading, I fear, to a general insurrection and civil war.

As it is, by stationing the troops, as a precautionary measure, at the points where, so far as we can learn, the danger of a commotion is most imminent, it is now hoped that no very serious or alarming outbreaks will occur. Should this be the case, and the election be fair and peaceful, the Topeka State movement will probably be abandoned, on the refusal by Congress during the present session to admit Kansas as a State under the so called Topeka State constitution. In that event the peace of Kansas, except, perhaps, at the insurgent city of Lawrence, would soon be established, unless difficulties should arise in connexion with the question of the submission of the constitution to the vote of the people.

Whenever the expression of my individual opinions in conformity with the true meaning of our organic law could prevent insurrection and civil war, requiring necessarily the use of the troops under my control, I have deemed it a solemn duty to pursue that course, rather than resort, in the first instance, to military power, involving, in case of a general insurrection in this Territory, interference from other States, and the probable overthrow, at no distant period, of the government of the Union. By pursuing this course in May and June last, in the opinion of impartial men of all parties, Kansas was saved from a most disastrous and sanguinary civil commotion. Sustained by a solemn conviction that on these occasions I performed an imperative duty, I shall be guided by the same views should a like emergency again occur, preferring the censure of those who are unacquainted with the facts of the case, rather than that a most deplorable and probably irremediable calamity should befall Kansas and my country. If, as I now trust, we shall have a fair and peaceful election on the first Monday of October next, and the constitution should be submitted fairly to the vote of the people, we shall have safely passed the most dangerous crisis in the affairs of Kansas. Even if we should be beaten at this October election, it will be from the want of a complete union of all the conservative elements in this Territory, because, when combined, they would constitute a large majority. I have heretofore

referred to some of the circumstances which tend at present to impair this union; but even a defeat in a fair and peaceful election would greatly strengthen the conservative party in any future contest, from the fact that such an election was held under the auspices of the present administration. So soon as all the conservative party of Kansas shall be thoroughly satisfied that the great fundamental principles of our organic act will be carried out here in good faith, and all just cause of distrust of the democratic party or apprehension of wavering councils shall be removed, we may expect the complete success of constitutional principles in Kansas. The views of the President and all his cabinet on the tax qualification for voters, so clearly stated in the late most gratifying communication from you to me of the 2d instant, has greatly strengthened the conservative cause in Kansas, and will add largely to our vote in the approaching election.

Indeed, the exaction of that tax as a qualification of voters would have driven from our support almost the whole of the largest section of the constitutional party in Kansas. I have been recently informed that arrangements were made, through the instrumentality of assistance from other States, by our adversaries, to have paid under protest, before the election, in a sufficient number of counties where the troops should be stationed, the entire poll tax of one dollar for each voter, which is all that is required by law, and thus have utterly destroyed, for an indefinite period, the constitutional party in Kansas.

Enclosed you will find a copy of my letter to General Harney of the 21st instant, showing the points where the troops under Colonel Johnston and Major Sedgwick will be located, as also the instructions under which they will act. Distant as these troops will be from my immediate supervision or control, I did not feel warranted, under all the circumstances of the case, in giving them any other orders, except to act as a *posse comitatus* in aid of the United States marshal or sheriffs in the performance of their official duties. Indeed, I rely much more on the moral effect of the mere presence of the troops for the purpose of protecting the polls and preserving the peace of Kansas than the forcible execution of any military order. I do not apprehend forcible resistance to the troops when acting as a *posse comitatus* in aid of the civil authorities; but if such a deplorable circumstance should occur, I have at least taken every precaution for its prevention, as well in my address of the 16th instant, before referred to, as in the directions for the troops contained in my before mentioned address of the 21st instant. Great as the responsibility even now is, if collision between the troops and the people had occurred, growing out of their instrumentality, under my orders, in exacting a tax, contrary to law, as a qualification for the exercise of the elective franchise, and blood had thus been shed and civil war reinaugurated in Kansas, I should have subjected myself and the administration to the severest censures, and contributed, by the failure to perform my duty, to the probable overthrow of the government of Kansas and of my country. As it is, no cause of reproach or of just censure can attach to the administration or myself in any event connected with the use of troops on the present occasion. On Monday next all the troops which will then have arrived at this post, except those required for the city of Lea-

venworth, will be stationed at various points, so far as practicable, for the protection of the polls and preservation of the public peace. So far as I can learn there is a very general acquiescence in the views set forth as to the tax qualification in my address of the 16th instant; but we are threatened with a serious difficulty at Leavenworth city by the late violent and insurrectionary appeals of the Topeka leaders to the residents who are not naturalized, and whose votes are, therefore, excluded by our territorial law of the 20th of February last. These residents in Leavenworth city who are thus excluded by law are estimated to exceed one hundred in number, and have been urged by the most inflammatory addresses to insist by force on the reception of their votes. The excitement is the more intense inasmuch as the majority of this county, it is generally supposed, will depend on these voters. This excitement is also increased by the fact that as this county elects eight of the members to the house of our territorial legislature, and three out of thirteen of the members of the council, the majority in both these bodies, it is believed by many, will, therefore, depend on the result of the election in this county. I shall be present myself at this most important election in Leavenworth city, and, if indispensably necessary, will give the proper directions for the use of the troops, acting as a *posse comitatus* in aid of the civil authorities in protecting the polls and preserving the peace at the election. In this county it is understood that all the judges of the election, at all the precincts, will cheerfully carry out, from their own convictions as to the law, all the views set forth as to the qualifications of voters in my address of the 16th instant.

Upon a previous invitation I attended a large public meeting yesterday of the people of the town of Kickapoo, in this county, and after the local conservative candidates on our ticket (which is equally divided between northern and southern democrats) had concluded their speeches, I was required, by repeated calls, to address the meeting. The result was most favorable, and in this important precinct the union between all the conservative elements in our favor will be complete. Indeed, wherever the ticket has been divided between northern and southern democrats we may look for success, and wherever this union has not taken place we will most probably be defeated. Inclosed you will find a copy of my letter of this date to General Harney, giving the necessary directions, as a precautionary measure, for placing Major Sherman's battery in the immediate vicinity of the city of Lawrence, supported by one company of artillery. This movement is rendered necessary by the facts stated in my address of the 16th instant, but is also made with a view to protect the polls from violence, not only in the city of Lawrence, but also in the town of Franklin, but four miles distant, which is a voting precinct, and which has been marked during the present month, since the withdrawal of the troops, by the burning of the houses of conservative citizens, and their expulsion from Kansas.

In conclusion, there is every reason to hope that the election on the first Monday of October next, notwithstanding the intense excitement which pervades the Territory, and the enrollment of the insurgent forces, will, in consequence of the moral influence of the presence of

the regular troops, and the tranquillizing effect of my address of the 16th instant, be marked by no general or alarming outbreaks. Should this be the case, and the proceedings of the constitutional convention, as I have ever believed, be wise and patriotic, we may look at an early day for the restoration of peace and order in Kansas, soon to be followed by the triumph here of conservative principles.

Most respectfully, your obedient servant,

R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State.

LEAVENWORTH, K. T., *September 26, 1857.*

SIR: Authentic intelligence has been communicated to me that the insurgent government of Lawrence, under the erroneous opinion that the regular troops had all been ordered to Utah, and would not be replaced by others, have passed a compulsory tax law, authorizing the seizure and sale of property, and exacting from their executive officers the enforcement of this ordinance under the solemnity of an oath. It was sincerely hoped that my proclamation on this subject of the 15th July last, which has received the cordial approbation of the President of the United States, together with the movement at that date of the troops to Lawrence as a precautionary measure, would have induced the people of that city to abandon their revolutionary proceedings. They have, however, chosen otherwise, under the erroneous conviction before stated; and it becomes necessary, therefore, to station troops again at Lawrence to meet any emergency which may occur.

Under these circumstances, it becomes my duty, under my instructions from the President of the United States, to request you to direct Major Sherman's battery, supported by one company of artillery, to proceed at once to the immediate vicinity of Lawrence, to act as a *posse comitatus*, in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace.

The service of the troops for this purpose will be discontinued so soon as the public exigency will permit.

Respectfully yours,

R. J. WALKER,
Governor of Kansas Territory.

Brevet Brig. Gen. WM. S. HARNEY,
Commanding troops serving in Kansas.

LEAVENWORTH, KANSAS TERRITORY,
September 21, 1857.

SIR: Insurrectionary movements, accompanied by a seizure of the polls, being threatened at the general election, which will take place in this Territory on the first Monday of October next, it becomes my

duty, under my instructions from the President of the United States, to request you to direct Lieutenant Colonel Johnston and Major Sedgwick, respectively, in command of the troops now on their way from the west, to make the following disposition of them:

1st. Lieutenant Colonel Johnston to retain two companies of infantry at Council Grove, in Wise county.

2d. Lieutenant Colonel Johnston to send immediately one company of cavalry to each of the following places in this Territory, viz: Emporia, in Breckenridge county; Burlington, in Coffey county; Hyattville, in Anderson county; and to Brownsville, in Shawnee county.

3d. Major Sedgwick to retain two companies of infantry at Marysville, in Marshall county.

4th. Major Sedgwick to send immediately one company of cavalry to each of the following points in Kansas, viz: to Richmond, in Nemaha county; to Claytonville or Hiawatha, in Brown county; to Palermo, in Doniphan county; and to Atchison, in Atchison county.

5th. In case the places named as above should, in any instance, prove to be those in which elections are not holden, then, in lieu thereof, said companies to proceed to the principal points, respectively, in said counties which are election precincts.

6th. Each of these twelve companies to be retained at the places respectively named as above, until the day succeeding the election, unless the proper authorities hereafter referred to, in the execution of their duties, should deem it necessary longer to retain them.

7th. The troops are requested to receive from you directions to act as a *posse comitatus* in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace. The United States marshal or sheriffs, it is presumed, will be at or near the several county seats, to whom the officer in command will immediately report himself and his force for the objects above specified.

Very respectfully, your obedient servant,

R. J. WALKER,

Governor of Kansas Territory.

Brevet Brig. Gen. WM. S. HARNEY,
Commanding troops serving in Kansas.

[From the Leavenworth Journal---Extra.]

TO THE PEOPLE OF KANSAS.

LECOMPTON, KANSAS TERRITORY,
September 10, 1857.

The first Monday in October, 1857, is the day assigned by law for the election, by the people of this Territory, of a delegate to the Congress of the United States, both branches of the territorial legislature, and various county officers. As the governor of Kansas, numerous and urgent calls have been made upon me by various public meetings and committees, by some of the judges of elections, and also by many citizens, to communicate my views in relation to the qualifications of

voters at that election, as also in regard to the legislative apportionment and the establishment of voting precincts.

As to the apportionment, the territorial election law of the 20th of February, 1857, requires it to be made upon the census provided to be taken under the territorial convention act of the 19th of February, 1857. The returns were made under that census, and the apportionment for that convention fixed by the acting governor, long before my arrival in this Territory; and, of course, over that matter I have no control whatever. Whilst it was a cause of deep regret to him, as well as to myself, that the census and registry were so incomplete in many counties, and that in fifteen counties organized as election districts under that law, and entitled to vote for delegates to the convention, there was neither census nor registry, and, therefore, that they could not participate in any manner in the choice of delegates on that most important occasion, yet no power to remedy the evil was vested by law either in him or me. The only remedy rests with the convention itself by submitting, if they deem best, the constitution for ratification or rejection to the vote of the people, under such just and reasonable qualifications as they may prescribe. That they would pursue this course I have never doubted; and although I have no right whatever to interfere in that question, yet, when my individual opinion was asked on this subject by members of the convention and others, I have always indicated a previous residence of three or six months prior to the vote upon the adoption of the constitution as most just and reasonable—a period of three months being prescribed by the convention law itself as the prior residence required in voting for delegates to the convention, and six months being designated by the territorial election law as the previous residence required in voting for members of the territorial legislature. Either of these qualifications, in my opinion, would have embraced the great body of the *bona fide* settlers who might be here *this fall*, inasmuch as the convention would probably not terminate their labors and submit the constitution until some time in November, and inasmuch as three or six months would probably be granted by them as an interval between the date of submission by the convention and the vote upon the constitution. I repeat, however, the opinions always heretofore expressed by me, that this is a matter which belongs exclusively to the convention, over which I have no power, except, in the language of the Kansas-Nebraska act, to “take care that the laws be faithfully executed,” including that organic act itself, and left at liberty as a citizen to take such a course as, in my judgment, would be most consonant with the principles of justice of the Kansas and Nebraska bill, and of the Constitution of the United States in any contingency.

The apportionment of members of both branches of the legislature is based, as I have stated, on the census taken under the convention act of the 19th of February, 1857. My power to make the apportionment expired on the 31st of May last, leaving me but three days, exclusive of Sunday, to perform that act after my arrival in this Territory. The territorial laws of 1857 had never been printed. They were then in the course of publication at St. Louis, Missouri, and no copy reached here until the middle of June, long after my power over

the subject had expired. The existence of this apportionment law was wholly unknown to the Secretary of State, to the probate judge of this county, or to any other person within my knowledge, and the printed copies, as I have stated, did not reach here until the middle of June. Of course, it was impossible for me to perform the duty prescribed in that act; and to guard against the contingency of those laws not reaching here before the first of June, the duty from and after that date was devolved by law upon the speaker of the house and president of the council.

That duty was performed by the officers designated by the law, and, I have no doubt, in good faith, although I was never consulted by them on that subject. The law prohibited them from apportioning members to counties not embraced in the census under the convention law, and I know it to be a matter of complaint by both parties that the districts are arranged so as to defeat their respective candidates. That the districts were arranged by these gentlemen, as charged by their opponents, with a view to bring voters from the State of Missouri into the adjacent counties of Kansas to control the election, I have the most solemn assurance from the most authentic sources of intelligence in that State is wholly unfounded in fact. That the census or registry was not made in fifteen counties of Kansas is owing to the neglect of the local officers of those counties to perform their duties, many of whom have excused themselves on the allegation that no means were provided, and no public money applicable to the expenses of taking the census and making the registry, and that they were unable or unwilling to make the necessary advances themselves. However this may be, I have ever regarded it as a deplorable circumstance that these counties could not participate in the election of delegates to the convention, but I feel confident that no such result was anticipated by the territorial legislature.

Although none of those fifteen counties could vote for delegate to the convention, (the remedy for which lies with the convention itself,) and although no members have been or could be apportioned them for the territorial legislature, yet the speaker of the house and the president of the council, in conformity with the duty prescribed by law, have attached them to other legislative districts, so that they can vote for members of the territorial legislature.

It is certainly a great calamity that these counties are thus deprived of their due weight in the apportionment of members for the territorial legislature, yet they can vote for the members in the districts to which they are attached; and the only result is to give too many members of that body to some counties in the apportionment, according to population, and not an absolute denial of the right of suffrage. This result was not intended by the territorial legislature, and could not be prevented by the officers by whom the apportionment was made. There was no intention on the part of the territorial authorities to disfranchise these counties. But this has arisen from accidental causes, over which I have no authority to exercise any control whatever, and I could give no legal efficacy to any vote that was not legal in itself.

It is hoped that the good citizens of these counties will vote to the extent permitted them by law, looking to an early period for the

remedies for all these grievances, and that we shall have no revolutionary outbreak or violence at the election, which would be fraught with incalculable evil and attended with no possible good.

It will be observed that the apportionment has no effect whatever upon the vote for delegate for Congress, or for county officers; in regard to both of which the counties excluded from the apportionment for the territorial legislature have the same rights and influence, in proportion to their votes, as the people of any of the other counties of Kansas.

In relation to precincts, which I am asked to establish, the act of the territorial legislature of 1855 regulates that subject in the fourth and fifth sections. The power is there given to the county officers to establish the precincts and select the judges of election, but there is a liberal provision in the law to meet any contingency. The fourth and fifth sections of the act are in the following words:

“Sec. 4. Every county that now is, or that may hereafter be established, shall compose an election district, and all elections shall be held at the court-house of such county where one has been erected. If there be no court-house, then it shall be the duty of the county commissioners to name a house in such county where the election shall be held; and if such commissioners fail to name such house twenty days before the election, it shall be the duty of the sheriff to name such house. In either of the last two cases, the sheriff shall give notice of the place of holding the election by written advertisements, set up in at least six public places in such county, or by advertisement in some newspaper published in such county, at least ten days before the day of the election: Provided, that the county commissioners may, from time to time, establish such additional election precincts as may seem to them necessary or proper; provided further, however, that in no case shall more than one precinct be established in any one municipal township.

“Sec. 5. The county commissioners shall appoint the judges of election, in each county or voting precinct, at least ten days before the election at which they are to act; and if, at the hour for the opening of the polls, such judges are not present, then the voters assembled shall have power to elect others to fill the vacancy or vacancies thus occasioned. Said judges shall, before they enter on the discharge of their duties, take the following oath or affirmation, to be administered by one of their own body, by the sheriff, or by any officer authorized to administer oaths:

“I do swear (or affirm) that I will impartially discharge the duties of judge of the present election according to law and to the best of my ability.”

As to the judges of election, then, there can be no difficulty under this law, the power being vested in the people at the several precincts, in case the county officers fail to perform their duty; and if there be no precincts, then the election can only be held at the seat of justice provided by law for each county. It has been suggested that this power is given to me under the convention law of the 19th of February, 1857, to establish precincts. It is true that very large and comprehensive powers are given to the governor of the Territory by that law, to which I shall have occasion hereafter to refer, and which seem to

have escape public attention ; but those powers are especially confined to my action under that law, and confer no authority in that respect, in regard to the October election. With me this is a matter of most sincere regret, inasmuch as it is now, and always has been, my most anxious desire to see a full and fair election held in October next, and to contribute to this result to the extent of all the authority devolved upon me by law. By the act of Congress, however, of the 30th May, 1854, organizing this Territory, and which is still in full force, in that respect, on this subject, it is declared in the 33d section that "the person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly." As regards the territorial legislature, the certificate is to be given by the secretary of state, who is to count the votes in the presence of the governor ; and in relation to the local officers, this duty, in case of contest, is devolved upon the courts.

In view of my duties in connexion with this law, my attention has been called to the qualification of voters under the law. But even here the prior duty is devolved upon the judges of election, and I might not have felt called upon to give any opinion upon the subject, but for circumstances of a most grave and serious character, to which I shall now refer.

The Territory is threatened with a violent seizure of the polls at the October election, leading necessarily to a collision and civil war. This would be a most disastrous circumstance, requiring imperatively the employment of the troops under my control to avert scenes disgraceful alike to this Territory and to our country, and which every good citizen could not but deplore. If, then, under these circumstances, the expression of my opinion could prevent, as in May and June last, the occurrence of such a catastrophe, I regard it as a solemn duty to make that expression, rather than resort to the employment of force, to be followed by scenes of anarchy and bloodshed.

The two questions presented for my consideration are :

First. Can those who were qualified under the organic act to vote at the first election in this Territory, vote also in October next, independent of any restrictions imposed by any act of the territorial legislature?

The 22d and 33d sections of the organic law, relating to this subject, are in the following words :

"*Sec. 22. And be further enacted, That the legislative power and authority of said Territory shall be vested in the governor and legislative assembly ; the legislative assembly shall consist of the council and house of representatives. The council shall consist of thirteen members, having the qualification of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: Provided, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for*

the election of the council and representatives, giving each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and house of representatives shall reside in, and be inhabitants of, the district, or county or counties, for which they may be elected, respectively. Previous to the election, the governor shall cause a census, or enumeration of the inhabitants and qualified voters of the several counties and districts in the Territory, to be taken by such persons and in such mode as the governor shall designate and appoint; and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the numbers of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

"SEC. 23. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter described, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein."

It will be perceived that the act of Congress is clear and explicit on this subject. It prescribes the qualifications only of those who

“shall be entitled to vote at the *first election*, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, *at all subsequent elections*, shall be such as shall be prescribed by the legislative assembly.” The provisos have no application whatever to the subject, inasmuch as they only prohibit the legislature from permitting persons to vote who are neither native nor naturalized citizens, nor have declared on oath their intention to become citizens, and certain officers, soldiers of the army, &c.

Now, then, it is clear, *first*, that as regards all elections but the first, the qualifications are not prescribed by the act of Congress; and *second*, the qualifications, with the restrictions before mentioned for all subsequent elections, are to be designated exclusively by the territorial legislature.

It is certain, then, that the question now raised as regards the pretended right of persons to vote who possess the requisite qualifications, under the act of Congress, for voting at the first election, but are excluded by subsequent territorial legislature now in force, has no foundation whatever in law; and such votes would be wholly illegal. Under these circumstances, I trust that no one will attempt to vote who is excluded by the territorial law; and that if such illegal attempt is made, such a clear violation of the act of Congress and of the laws of this Territory will be arrested and prevented by the judges of election.

The second question is:

Will voters at the elections in October, who possess all the qualifications provided by the territorial act of the 20th of February, 1857, which is the last act on this subject, be also required to possess other and different qualifications contained in the preceding territorial enactments, or is the last law the sole rule of action on this subject? This last act is the general election law, providing for a new and entirely distinct apportionment of members for both branches of the territorial legislature, as also the qualifications of voters at that and all succeeding elections, and is entitled “An act to define and establish the council and representative districts for the second legislative assembly, and for other purposes.” The first section designates by name the several counties of Kansas which are to constitute the several council districts; the second section designates by name the several counties of Kansas which are to constitute the respective representative districts; the third section apportions members among the several representative districts according to the census provided for in the convention law; the fourth section apportions in the same manner the members among the several council districts; the fifth and last section is in these words:

“Sec. 5. Every *bona fide* inhabitant of the Territory of Kansas, being a citizen of the United States, over the age of twenty-one years, who shall have resided six months in said Territory before the next general election for members of the council and house of representatives, and no other person whatever, shall be entitled to vote at any general election hereafter to be held in this Territory: *Provided, however*, that nothing in this act contained shall be considered to apply to or affect in any manner the provisions of an act entitled ‘An act to provide for taking the census, and election for delegates to a convention.’

"This act to take effect and be in force from and after its passage."

The language of this section is clear and explicit. It is an act prescribing the qualifications, and all the qualifications, of voters at all future elections. The law is perfect and complete in itself, without Any reference whatever to preceding enactments. The language is free from controversy. "*Every bona fide inhabitant,*" &c., *shall be entitled to vote,*" &c. The words are imperative. It is the language of command from the proper authority, and no one has any right to interpolate restrictions contained in preceding enactments. It is a well settled principal of law, as well as of common sense, that when any subsequent statute proceeds to regulate an entire subject in general and comprehensive language, it is of full force and effect in and of itself, and no restriction or addition can be made to its provisions by reference to any preceding enactments. In such a case there can neither be addition nor subtraction; and the number of qualified voters can neither be augmented by adding to them those who were permitted to vote by preceding laws, nor be lessened by subtracting those who were restricted from the right of suffrage by previous enactments. The words "every citizen," &c., and "no other" shall vote, include all who are described in the act, and exclude all others. Besides, the right of suffrage is the most sacred known to the American people. It is the basis upon which repose all their institutions.

It is a right highly favored in our law, and in all such cases, to deprive any one of this right, the words must be clear and unambiguous. But in this case there is no ambiguity; and independent of the fact that this act, as regards elections and the qualifications of voters, is an act complete in itself, and prescribing all the provisions applicable to this subject, any interpretation by which a restriction as regards the right of voting, contained in a preceding law, should be super-added to those required in this act, would create a direct and positive repugnance to its clear and explicit language, and, therefore, would be most clearly repealed by virtue of that universal principle of jurisprudence, that, when two statutes contain provisions which are repugnant, repellant, or contradictory, either by way of addition or subtraction, the last statute must prevail.

Now, let us see if there would not be direct repugnancy in this case, under the construction contended for, by those who assert that, although the qualification of a territorial tax is not among the qualification of voters under the act of 1857, yet that it is a qualification under the act of 1855, and therefore still in force. Let us place them in opposite columns.

Act of 1857 provides:

"Every *bona fide* inhabitant of the Territory of Kansas, being a citizen of the United States, over the age of twenty-one years, and who shall have resided six months in said Territory before the next general election for members of the council and house of representatives, and no other person whatsoever, shall be entitled to vote at any general election hereafter to be held in this Territory."

The act of 1857, as now construed, would read as follows: "Every *bona fide* inhabitant of the Territory of Kansas, being a citizen of the United States, over the age of twenty-one years, and who shall have resided six months in said Territory before the next general election for members of the council and house of representatives, and no OTHER person whatsoever, SHALL be entitled to vote at any general election hereafter to be held in this Territory;" *but no such citizen shall be permitted to vote unless he has first paid a territorial tax.*

Is it not clear that the two provisions would be directly repugnant by the addition to the act of 1857 of a proviso and restriction not contained in that act, but in a previous law. The words of the act of 1857 are general. "*Every citizen,*" &c., "*shall be entitled to vote on a residence of six months.*" This language gives the right to vote, in clear and positive terms, to every citizen, &c., who has been a resident for the term prescribed by law. "Every citizen" are general and comprehensive terms, and they cannot be restricted by other words not contained in this law. By the 11th section of the act of 1855, no previous residence is required as a qualification for a voter, but the payment of a territorial tax is made a prerequisite. Now, it is clear that if, when prescribing a previous residence of six months, in using the general and comprehensive language "*every citizen,*" &c., the legislature of 1857, besides that residence for the first time prescribed by law, had intended, in addition, to require the previous payment of a territorial tax, they would have said so; and not having said so, such words can be interpolated neither by judicial nor executive construction. In fact it is not a case of construction at all, but of using words which the legislature have not used, and of making provisos and restrictions for them which they have not made, and of excluding voters from the polls whom they have not excluded. Besides, this is no new question. It has occurred repeatedly in the several States and Territories of this Union, and, as a principle of universal adoption, under such laws, it is well settled, without a single exception to the rule, that where one State constitution, regulating the right of suffrage, prescribes certain qualifications of voters, it is complete in and of itself, and is universally regarded as repugnant to so much of any previous constitution which either adds to or subtracts from such qualifications. And the same rule prevails in relation to State and territorial laws. This is the great American rule of interpretation on this subject, amounting, from long established and universal usage, to the force of law.

If there could have been any possible doubt on this subject, it is removed by the provisions of the territorial convention law, passed on the day preceding that on which was enacted the election law, and referred to and made the basis of many of the provisions of the latter. That convention law prescribes a previous residence of three months and a registry as qualifications for voters, but is just as silent as the territorial election law on the subject of the payment of a tax; and yet no one has ever pretended that the prepayment of any tax constitutes a necessary qualification for a voter for delegates to that convention. No such payment of a tax was ever exacted, and was rarely, if ever, made. And such a construction as is now contended for, that because there was no direct repeal of the tax qualification, therefore it still existed, would render illegal the election of nearly every member of the constitutional convention, and impair the validity of all their acts. The election law of 1855, imposing the tax qualification, was general. It applied to *all* subsequent elections; to "*every inhabitant* of this Territory and of the county or district in which he offers to vote," and to "*all elective officers.*" It was as general and comprehensive in its application to *every election* which could take place under any territorial law as the legislature could make it, and would

apply the restriction of the prepayment of a territorial tax in voting for delegates to the convention just as much as in voting for members of the territorial legislature in October ; upon this alleged principle, that restrictions or qualifications in preceding laws are not repealed by general provisions in a subsequent statute prescribing for subsequent elections the qualifications of voters. The convention law required a three months' previous residence and registry as a qualification of voters, but was silent, like the election law of 1857, as regards the prepayment of any tax ; and if such a prepayment, by force of preceding enactments, applies as a qualification for a voter for the territorial legislature in October, then it would just as clearly follow, that inasmuch as the convention act was equally silent as to the payment of a tax, the voters for delegates to that convention, besides the three months' residence and registry, must have paid a tax also. But the truth is, whilst the tax remains, the qualification applies no more to the election in October than it does to the election of the delegates to the convention, because it was dropped in both acts, and because we have no right to insert a most important provision that is thus omitted by the legislature, and because it is a settled rule, in interpreting statutes, that if the legislature had intended in either case, in prescribing the qualifications, and all the qualifications of voters, to superadd one that was inserted in a preceding law, they would have repeated the restriction in a subsequent statute. How easy was it for the legislature, in prescribing the qualifications of voters under the convention or election law, if they intended, in addition to the qualifications named in these laws, to require the payment of a tax, to have said so, and not left it to others to interpolate words which they had excluded. They have not said so, and that is enough. On this subject I have never entertained any doubt, and never supposed there could be any question. And I might have declined the expression of any opinion on either of these points but for the certain knowledge of the fact, communicated to me from almost every quarter of the Territory, and from all parties, that these conflicting constructions of the law, if not settled, will certainly produce collision at the polls, and most probably a disastrous civil war and revolution. I claim no authority to instruct the judges of election, by virtue of my official power, how they shall decide ; but I give my opinion, as others have given theirs, and with the same sincerity, in the hope that it may tend somewhat to prevent the disasters with which we are threatened, growing out of these conflicting opinions, and that it may render unnecessary a resort to the military force, subject to my orders, to preserve the peace of the Territory. That military force which is now already here, or daily arriving, is amply sufficient to preserve the peace of Kansas ; but it is my sincere hope that the mere presence of this force, competent as it is to suppress insurrection or rebellion and maintain the authority of the law, will render any collision unnecessary.

On the 19th of August last, I communicated to the President, through the Secretary of State, my views on this subject, together with copies of the several territorial laws, and asked the aid of the President and his cabinet to sustain me, by the moral force of their opinion, in

preventing a collision and civil war in this Territory, by stating, if such should be the fact, their concurrence with me in these views. In reply to this communication, in a despatch from the Secretary of State to me, under date of the 2d of September, 1857, after remarking most justly, as I always contended, that I could issue no authoritative mandate to the judges of election on this subject, or control their decision, he says:

“The Territory of Kansas is in a peculiar condition. By your statement, and possessing, as you do, the best means of information, your views, in the opinion of the President, are entitled to great weight—it is in a state of incipient rebellion with an organized military force prepared to resist the authority of the United States.

“It may, therefore, become necessary to use the troops placed at your disposal, not only to aid as a *posse comitatus* in executing the laws, but also to suppress an insurrection. Surely, under these circumstances, if the expression of an opinion in advance of his action, and it may be instead of it, which the President honestly entertains, will have a direct effort in preventing a civil war in Kansas, he cannot be justly censured for attempting, by such an expression of opinion, to avert the calamitous result.

“The danger you anticipate arises, as you observe, from the apprehension of a portion of the citizens of Kansas that they will be excluded from the privilege of voting, because they have not paid a territorial tax. Now, the President, as well as every member of his cabinet, concurs in opinion with you that the payment of such tax is not required as a qualification to vote. He and they entertain not a doubt that the 5th section of the act of February 20th, 1857, is complete in itself, and prescribes all the qualifications required of a voter, and among these the payment of a territorial tax is not included. They are also firmly convinced that no person whatever not possessing these qualifications, notwithstanding they may possess the qualifications prescribed for voters by the organic act of Congress of May 30, 1854, has any just claim to the elective franchise.”

It will be observed, then, that in view of the deplorable condition of Kansas for the last three years, and the civil war which has so long raged in this Territory, and the imminent danger of a renewal of that conflict growing out of conflicting views as to the qualifications of voters at the ensuing election, the President and his cabinet have deemed the occasion sufficiently solemn and important to express their full, unanimous, and entire concurrence in the views as to the qualifications of electors at the October election, on those points set forth by me in this address, and previously communicated by me to the Secretary of State.

It is obvious that the territorial government of Kansas must be maintained either by a superior physical force, or, as in all other States and Territories, by the majority of qualified voters at the election.

I never contemplated the use of the military force but in aid of the execution of the laws, to protect the citizens in the exercise of their legal rights, as a *posse comitatus* to arrest offenders, where the civil authority might prove incompetent without such aid, and where the

law authorized military power to suppress insurrection or rebellion. Physical force and the bayonet constitute the real power in nearly all monarchies and despotic governments, but here it is the will of the majority of the people qualified to vote under the constitution or under the laws which is to govern; and the sooner all such questions are decided by a full and fair vote of the qualified electors at the polls, the better; and then, and not till then, shall we have peace and repose in Kansas. Unless force is to be substituted for the elective franchise, unless despotic and monarchical principles are making here insensible progress, sooner or later the question must thus be decided, and the sooner the better, not only for the true interests of this Territory, but for the security of the Union and the cause of self-government here and throughout the world.

The eyes of our country and the world are now directed with intense interest to the coming election in Kansas in October next. Whether the people of this Territory are, indeed, capable of self-government, whether the scenes which have disgraced Kansas and our country for the last three years are to be renewed indefinitely; whether violence, injustice, or insurrection, on one or both sides for the moment, and for the moment only, are to decide the question; or whether our political differences are to be settled here, as in all other States and Territories, (under the provisions of our organic law,) by the full free and fair exercise of the elective franchise, are the momentous questions to which you must all now soon answer. The test oath is expressly repealed as a qualification for voters by an act of the territorial legislature of the 17th of February, 1857.

The people of Kansas have now, therefore, an opportunity, in conformity with the Constitution of the United States, the organic act of Congress, and the laws of this Territory, to decide, by the elective franchise, the choice of their delegates to Congress, their territorial legislature, and all their county officers.

The troops at my disposal, which are fully competent to the task, will, at the request of citizens of both parties, be stationed at the points where violence has been threatened or anticipated, not for the purpose of overawing the people, or of interfering in any way with the elections, or of influencing them in any respect whatever, but, by their mere presence, guarding the polls against any attempt at insurrection or violence, from the mere knowledge of the fact that it can and will be suppressed, but, if necessary, also to protect and secure by lawful means all the just rights of the citizen in exercising the elective franchise under the decision of the proper authorities, and to act as a *posse comitatus* for the arrest of offenders. I should have greatly preferred, as expressed in my letter of acceptance of the office of governor of this Territory, never to have been required to call out the troops even as a precautionary measure. As it is, not a drop of blood has been shed; and insurrection has been suppressed, until it recently reappeared in a compulsory tax law by the insurgent government at Lawrence, and in conflagration of dwellings and expulsion of peaceable citizens in its vicinage, after it was known the troops were ordered to Utah, and when it was falsely supposed that they would not be replaced by others. Indeed, if the revolutionary government of Lawrence had not been

encountered by the immediate movement of troops there, it is now clear that similar insurrectionary local governments, based on my presumed acquiescence, would have been organized throughout Kansas in open defiance of the laws of Congress and of this Territory, and rendered a peaceful settlement impossible. It will be remembered, that in open defiance of the laws of Congress and of this Territory, and after the refusal of the so-called Topeka State legislature to grant them a charter, they nevertheless organized a city government, clothed with all the usual powers—legislative, executive, and judicial. It will be recollected, also, that after my proclamation of the 15th of July last, and the simultaneous movement of the troops there as a precautionary measure, to maintain the authority of the government and arrest the spread of this insurrection throughout the Territory, they then professed, through their organs, that what they had called a *government*, and to which they had given all the powers of a government, was a mere "*voluntary association*" for the removal of nuisances from the streets, &c. But now, when it was erroneously believed by them that the troops would all be removed to Utah, and not replaced by others, they have thrown off the mask, and carried out their original insurrectionary purpose by passing a compulsory tax law, both a poll and property tax, requiring its assessment and collection by the seizure and sale of property, and exacting by their charter from executive officers, who are to carry out these acts, *an oath* to perform all these duties, the violation of which oath, if these duties are not performed, would be perjury. At the same time they seemed to have believed that this precautionary movement of mine and proclamation were disapproved by the President of the United States, whereas they were both most cordially sustained by him in the despatch to me from the Secretary of State of the 25th of July last, as also in the published letter of President Buchanan to Professor Silliman and others, of the 15th of August last. An overwhelming majority of the press and people of the United States have condemned this insurgent movement. The example has not been adopted by any other locality in Kansas, contrary to the expectation of its authors; it failed to receive any sanction from the general territorial convention of their own party of the 26th ultimo, and now stands without a precedent in our country—a solitary monument of revolutionary violence and incipient treason. So soon as the *overt act* now threatened is consummated, this rebellion will be suppressed by the lawful use, if necessary, of all the troops under my control, acting in aid of the civil authorities designated by Congress. It is hoped, however, especially as I trust we shall have a fair and peaceful election, when, whichever party shall prevail, all semblance of excuse for this insurgent movement will have ceased, that the majority of the people of Lawrence will abandon their reckless leaders, suppress this insurrection themselves, and relieve our Territory and country from the disgrace of an insurrectionary government, based now only on undisguised revolution, and an open overthrow, not merely of the territorial laws, but of the laws also of the United States. The honor and character of the country, and my sworn duty as chief magistrate of Kansas, require that this first actual example of organized rebellion as a government

against the authority of Congress should be suppressed, as it must be; and the sooner it is done by the people of Lawrence themselves, the better for the sake of their own true interests and reputation. Dangerous and unjustifiable as was the Topeka State movement, it differed widely from the Lawrence insurrection in this: that the latter not only passed laws, but required, by seizure and sale of property, their compulsory execution under the requisition of an oath; whereas the so-called Topeka State government proposed, on the face of their late proceedings, to wait until they received, as they profess to hope, the recognition of Congress. As the troops of the United States now subject to my orders are sufficient to protect the polls and preserve the peace of Kansas, it is hoped that the forces raised professedly for that purpose, without authority of law, will be at once disbanded.

From authentic information communicated to me from many quarters of this Territory, and from many citizens of both parties, that the presence of the troops is essential to preserve the peace of the Territory, to prevent the forcible seizure of the polls, and to suppress insurrection, I feel constrained, although most reluctantly, by a solemn sense of duty, and by a most serious apprehension of the consequences which otherwise would follow, to place the troops at proper points, not for war, but for peace, in accordance with the views and purposes before stated.

In conclusion, permit me say, with all the seriousness and sincerity demanded by the solemnity of the occasion, that it now is, and always has been, my most ardent desire, as the chief magistrate of this Territory, by all lawful and constitutional means to secure and protect the just rights of every citizen, and especially in performing my sworn duty of supporting the Constitution of the United States, and taking care that the laws be faithfully executed; to see that the great fundamental principle which lies at the basis of our American institutions, secured by the federal compact and guaranteed by our organic act of Congress, should be maintained, viz: that *the people of Kansas, in the true meaning of that act, free from all violence, injustice, or foreign interference, should make their own laws and control their own government.* This has been the great principle, the just and faithful execution of our organic law, which has controlled all my acts in Kansas, and to which I shall adhere, regardless of menace, calumny, or assaillment, either from within or beyond our limits. I am made by law the chief executive officer in Kansas, for the protection, to the extent of my legal authority, of the whole people of Kansas, and not of a part—of every county and district, and not of a portion of them only. And however solicitous I may be about the result of the present most important election, however most anxious that those views of public policy which I have entertained and expressed at all times from my youth upwards to the present period, and especially as regards the EQUILIBRIUM of our government, and the constitutional rights and equality of the States, should now triumph here in October, yet I cannot and will not do any act, or countenance or sustain any act, the effect of which would be to deprive the people of Kansas of any rights secured to them by the federal compact, by our organic act, or by the laws of this Territory. A victory thus secured by violence or injus-

tice would be worse than a defeat, and could only in the end destroy all hope of the ultimate success of conservative principles and constitutional liberty in Kansas.

Inasmuch as our ensuing election on the first Monday in October next is of momentous consequence to this Territory and to our whole country, as the two parties of Kansas, it is hoped, will first measure their strength now, not as in former elections, at different times and places, or upon the field of battle, but at the same times and places in giving in their votes, as in other States and Territories; and as it is of the utmost importance that this election should be free from everything which would lead to excitement or commotion, I most earnestly request the chief officers of our different towns, cities, and municipalities to resort to those means which have so often in similar cases proved efficacious, by removing for that day all causes which would interfere with a calm and dispassionate election.

And now, may that overruling Providence, who has crowned our beloved country with so many blessings and benefits, including the inestimable privilege of self-government, and without whose aid we cannot look for success in any enterprise, enable us so to conduct this contest as to insure His sanction and the approval of our own conscience, is the fervent hope of your fellow-citizen,

R. J. WALKER,
Governor of Kansas Territory.

Mr. Walker to Mr. Cass.

FORT LEAVENWORTH, K. T.,
October 10, 1857.

SIR: We have heard from all the points where the troops were stationed, and the election has been entirely peaceful. This is due mainly to the address issued by me in regard to the qualification of voters, aided as it was by the concurring opinion of the President and all his cabinet. So far as we have learned, the judges of election, at all the precincts, acted upon the views set forth in that address, although complaints are made that, at some points, in the absence of challengers at the polls, illegal votes were given. In effecting, for the first time in Kansas, an election so quiet and peaceful, we were greatly aided by the moral influence of the presence of the troops stationed at various points where tumult was apprehended and the good judgment evinced by the officers in command. I cannot speak with certainty as to the result of the election, but the returns received are supposed to indicate the success of the republican candidate as delegate to Congress and a probable democratic majority in the territorial legislature.

I transmit herewith copies of communications between General Harney and myself as to the disposition of the troops now in Kansas, and respectfully request that the suggestions there made may be carried into effect by the government.

It is proper that I should now express my great obligations to

General Harney for judicious advice, at all times, as to the location of the troops, a prompt and cordial co-operation, and a just and patriotic appreciation of the serious difficulties by which the Territory has been surrounded.

To Captain Alfred Pleasanton of the second dragoons, assistant adjutant general, my thanks are due for wise counsels in connection with the location of the troops, and prompt action on all occasions, greatly increasing his labors at this post.

To my military aids, Captain William S. Walker and Lieutenant Eugene A. Carr, both of the first cavalry, I am greatly indebted for good advice, ready and cheerful co-operation, and arduous and important service. Indeed, it is demanded by truth and justice, that I should express in the strongest terms my high appreciation of the firm and forbearing, yet prudent and discreet course pursued during the past five months by all the officers serving in Kansas.

I still entertain the opinion, always heretofore expressed by me, that the constitution will be submitted by the convention to the vote of the people. When this is done, and the slavery question thus settled in accordance with the meaning of the Kansas and Nebraska bill, we may anticipate a thorough union of all conservatives here, and a final triumph of sound constitutional principles in Kansas. No one absent from the Territory can fully appreciate all the dangers and difficulties by which it has been environed during the last five months, especially by the threatened Topeka State organization, the Lawrence insurrection, and the perilous tax qualification question. That measures at once just and firm, but conciliatory, have contributed somewhat to this result is the opinion of all impartial men in Kansas. But, over and above all, now and at all times, my reliance has been and still is on that overruling Providence whose guardian care has so often saved and protected our beloved country; who cannot abdicate the moral government of the universe, and whose aid, when invoked in a proper spirit and in a just cause, will not be withheld.

Most respectfully, your obedient servant,

R. J. WALKER,

Governor of Kansas Territory.

Hon. LEWIS CASS,
Secretary of State.

HEADQUARTERS TROOPS SERVING IN KANSAS,
Fort Leavenworth, October 9, 1857.

GOVERNOR: The War Department having assembled a large number of troops at this place, under my command, with instructions to fill your requisitions, at any time, for their services as a *posse comitatus*, it is necessary I should know the probable length of time the presence of this force will be required, that arrangements may be made for their accommodation.

The limited allowance of quarters at this post, and the approach of winter, urge upon me to request of you such information relating to this subject as will enable me to suggest advisedly to the department

the proper measures to secure the comfort and efficiency of the troops of this command.

I am, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons,

Brevet Brigadier General, commanding.

His Excellency R. J. WALKER,

Governor of Kansas Territory, Fort Leavenworth, K. T.

FORT LEAVENWORTH, K. T.,

October 10, 1857,

SIR: In reply to your communication of this date, requesting my views as to the disposition of the large force now here or daily expected, I have the honor to make the following suggestions:

So far as we have heard the late election in Kansas has led to no violence or tumult.

For this result the country is mainly indebted to the just policy adopted here, to the moral influence of the presence of the troops at various points, and the good judgment evinced by the officers in command.

The prospect of the permanent pacification of Kansas has been greatly improved by the events to which I have referred. There are, however, important questions still pending here, connected with the action of the constitutional convention and territorial legislature of Kansas, which would render it unsafe, before next spring, to diminish the military force now here. I would, therefore, suggest that the force be retained here for the present, and that it be stationed partly at Fort Riley, and the remainder at Fort Leavenworth, or some point in the immediate vicinage.

If no untoward circumstances should occur this fall or winter in Kansas, it is my belief that thereafter no military force will be required in connexion with the administration of affairs in this Territory.

I am, general, most respectfully, your obedient servant,

R. J. WALKER,

Governor of Kansas Territory.

Brevet Brig. Gen. WM. S. HARNEY,

Commanding government troops in Kansas, &c.

Mr. Walker to Mr. Cass.

FORT LEAVENWORTH, K. T.,

October 10, 1857.

Sir: I respectfully request from the President of the United States leave of absence from this Territory during the ensuing month of November.

The condition of my private affairs and of my family render this short absence of *vital importance* to me.

Please reply by return mail to my address at Lecompton, as also by duplicate at Leavenworth city.

Very respectfully, your obedient servant,

R. J. WALKER,
Governor of Kansas Territory.

Hon. LEWIS CASS,
Secretary of State.

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,
Washington, October 21, 1857.

SIR: Your letters of the 10th instant have been received and submitted to the President.

The President is gratified to find that the election in Kansas has taken place without any disturbance of the public peace, and that the authority of the law is fully established.

Under these circumstances, he sees no objection to the leave of absence which you request at the close of the session of the convention, and at that time, should no occurrence take place requiring you to continue in the Territory, you are authorized to be absent for the term of a month.

I am, &c.,

LEWIS CASS.

His Excellency ROBERT J. WALKER,
Governor of Kansas, Fort Leavenworth.

Mr. Walker to Mr. Cass.

EXECUTIVE OFFICE, LECOMPTON,
Kansas Territory, November 3, 1857.

SIR: Enclosed you will find copies of the following official papers: First. The proclamation of the governor and secretary of Kansas, of the 19th October, 1857, rejecting the spurious, fictitious, and illegal papers, purporting to be "returns" of the recent election at the Oxford precinct, in Johnson county, in this Territory. Second. The proclamation of the governor and secretary of Kansas, of the 22d October, 1857, rejecting the spurious, fictitious, and illegal papers, purporting to be "returns" of the recent election in McGee county, in this Territory. Third. The writ of mandamus from the judge of the second judicial district of this Territory, requiring said governor and secretary to issue certain certificates of election, and their answer to said writ.

You will perceive, on reference to the aforesaid proclamations, that

we have never proposed to go behind genuine, legal, and valid returns, to purge the polls, or judge of the qualifications of voters, but that we have rejected the papers therein referred to, because they are not "returns" in the language of the law, and because they are spurious and fictitious.

Since the publication of these several proclamations it is not contended by a single individual, so far as my knowledge extends, that these so-called returns are genuine; on the contrary, by universal admission they are spurious and fictitious.

If, under these circumstances, these pretended votes had been counted by us, and the certificates given accordingly, we should have violated the law and our duty; we should have made ourselves accomplices in a most disgraceful fraud; we should have committed a gross outrage upon the elective franchise and the sacred rights of the people of this Territory, immediate revolution would have followed throughout Kansas, and the pacification of the Territory have been indefinitely postponed.

On the morning of the 19th of October last the constitutional convention reassembled at Lecompton pursuant to adjournment. For some days prior to that date intense excitement had pervaded the Territory in consequence of intelligence in relation to these election frauds, and a popular revolution was generally believed to be inevitable.

A large meeting was assembled on Saturday, the 17th of October, at Lawrence, and violent measures were threatened by some of the speakers. A more conservative course, however, was advocated by others; and upon its being announced by them that the governor and secretary would reject the fraudulent election papers, we both became satisfied that, if this were done, the constitutional convention would not be disturbed in its deliberations.

The troops were therefore not then ordered from Lawrence to Lecompton, inasmuch as I did not desire to place the convention in the attitude of being unable to conduct its proceedings except under the protection of the troops of the United States. As, however, the meeting opposed to the proceedings of the convention did resolve to assemble at Lecompton on the morning of the 19th of October, the proclamation of that date, rejecting the fraudulent election papers, was printed and circulated at an early hour that day among the crowd, by whom also the reading of the paper was demanded from their speakers. The proclamation was received by the people with great enthusiasm; and from that moment it was obvious that no violence would be committed, but that the opposition to the convention would be confined, as it was, to the adoption of denunciatory resolutions. Prior, however, to the happening of these last events, early on the morning of the 19th of October, an urgent written call was made upon me by the sheriff of the county, who is also a member of the constitutional convention, to bring troops forthwith for its protection to this place. Under these peculiar circumstances, the troops under Major Sherman were immediately ordered to Lecompton by me, and arrived there the evening of the 19th of October. Before their arrival, however, the crowd assembled at Lecompton had quietly dis-

persed, and all apprehension of any immediate popular commotion had subsided.

It is now nearly two weeks since the mandamus was served upon the secretary and myself; and no further steps being taken, we presume that all proceedings under that extraordinary process have been abandoned. As the issuing of this mandamus, and the opinion prevailing for some days in Kansas that the governor and secretary would be imprisoned for disobedience to the anticipated mandate of the judge, had produced most alarming excitement in the Territory, threatening an immediate and most dangerous popular commotion, we deemed it due to ourselves, as well as with a view to preserve the peace of Kansas, to publish immediately our reply to this process, asserting our determination to submit to imprisonment if ordered by the judge, and that the governor would use the troops to act as a *posse comitatus* to suppress any tumult that might arise from the execution of the judicial mandate for our incarceration. The popular excitement gradually subsided with the publication of these views, set forth in our answer to the mandamus, and there is now no immediate danger of revolutionary movements in Kansas. The future peace, however, of Kansas will depend mainly upon the wisdom which may characterize the final action of the constitutional convention, and of our next territorial legislature.

As regards the proclamation of the 19th and 22d of October last, it is proper to say that they meet the cordial approval of an overwhelming majority of the people of all parties in this Territory.

Your communication of the 21st of October last, granting me leave of absence from the Territory for one month after the close of the session of the convention, has been received, and I am sure the President will regret to learn that this restriction as to the date of my departure will defeat one of the main purposes of my temporary absence.

Most respectfully, your obedient servant,

R. J. WALKER.

Hon. LEWIS CASS,
Secretary of State.

This despatch is taken by my excellent friend and military aid, Lieutenant Eugene A. Carr, whom permit me to commend to your kindest attention.

R. J. W.

PROCLAMATION TO THE PEOPLE OF KANSAS.

LECOMPTON, *October 19, 1857.*

By the 32d section of the organic act establishing this territorial government, it is provided, in reference to the election of a delegate to Congress, that "the person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly."

By the sixteenth section of the act of the territorial legislature of

Kansas, entitled, "An act to regulate elections," it is made the duty of the secretary to examine the returns in the presence of the governor, and to "give to the persons having the highest number of votes in their respective districts certificates of their election to the legislative assembly."

Under these two provisions of the laws prevailing in this Territory, the recent general election has presented for the joint consideration of the governor and secretary a question of the gravest importance, not only to our own people, but also to those of the whole Union. This question arises upon the extraordinary returns made from the precinct of Oxford, in the county of Johnson. What purports to be the returns of the election held at that precinct on the fifth and sixth instant have been received by the secretary, containing sixteen hundred and twenty-eight names of pretended voters, or nearly one-half the number given in the whole representative district. The disposition to be made of this supposed vote is rendered all important by the fact, that the political character of the legislative assembly will be controlled by the addition of three councilmen and eight representatives to the strength of one party or the other, according to the adoption or rejection of the returns in question.

In point of fact, it is well known, that even the whole county of Johnson, comprising, as it does, part of an Indian reserve, which, upon examination of the law, we find is not yet subject to settlement or pre-emption, can give no such vote as that which is represented to have been polled at this inconsiderable precinct of Oxford. But while this unofficial knowledge, well established and universal as it may be, could not become the ground of decision and action upon election returns, in themselves regular and authentic, the legitimate effect of an apparent enormity, such as that in question, would necessarily be to induce a close examination of the paper presented, and to require for its acceptance a perfect compliance with all the essential provisions of the law. Such an examination of this document, conscientiously and impartially made, has brought us to the conclusion that the returns from Oxford precinct, in Johnson county, must be wholly rejected for the following reasons :

1st. It does not appear on the face of the document presented to us, or in any other manner, that the judges of election took the oath imperatively required by the statute, to secure the "impartial discharge of their duties according to law."

2d It does not appear that the paper presented to us was one of the two original poll books kept at the election, as required by law ; but, on the contrary, it does appear, from unmistakable internal evidence, that the paper is either a copy of some other document, or has been made up for the occasion, and is not the genuine record of the votes taken at the election. The law requires one of the poll books to be returned to the secretary, the other to be deposited with the clerk of the board of commissioners of the proper county.

3d. As the vote of each elector was to be recorded for each one of twenty-one candidates, and in more than a hundred cases for twenty-five, and that by a *viva voce* vote, it was a physical impossibility that the number of votes pretended to have been taken on the second day,

being more than fifteen hundred, with the name of the voter written, and each of twenty-two candidates properly designated, could have been taken and recorded within the time prescribed by law.

4th. It is an extraordinary fact, tending to throw distrust upon the whole proceeding, that of the sixteen hundred and twenty-eight votes, only one is given to the delegate elect to Congress; and only one hundred and twenty-four are recorded as having been cast for the local candidates of the township.

Influenced by these considerations, and impressed with the grave responsibility resting upon us in regard to the fairness of the election, and its freedom from all fraud susceptible of detection and prevention within the scope of our duties, we deemed it essential to truth and justice that we should ascertain every fact calculated to refute or confirm the conclusions derived from the face of the papers. Accordingly we went to the precinct of Oxford, (which is a village with six houses, including stores, and without a tavern,) and ascertained from the citizens of that vicinity, and especially those of the handsome adjacent village of New Santa Fé, in Missouri, (separated only by a street and containing about twenty houses,) that altogether not more than one-tenth the number of persons represented to have voted were present on the two days of the election, much the smaller number, not exceeding thirty or forty, being present on the last day, when more than fifteen hundred votes are represented as having been given. The people of Oxford, as well as those of the neighboring village of Santa Fé, were astounded at the magnitude of the return; and all persons, of all parties, in both places, treated the whole affair with derision or indignation, not having heard the alleged result until several days after it had occurred.

In the course of our journey to and from Oxford we passed over much of the larger part of the county of Johnson, and we became thoroughly satisfied that there is no population in the whole county from which more than one-third the vote of that single precinct could have been given. We learned that some very few persons, having cabins on the reserve in Johnson county and claiming a residence therein, though generally absent, had voted at some of the precincts in that county; but we are convinced that but a very inconsiderable number, not reaching, we believe, one hundred of Missourians or other persons having no admitted right to vote, did claim or attempt to exercise that right anywhere within the county. The people of Missouri cannot be justly charged with any interference in the late election, nor are they in any degree complicated with the evidently fraudulent returns made from the precinct of Oxford. Those returns, beyond all doubt, are simulated and fictitious.

Under these circumstances we do not feel embarrassed by any technical difficulty as to our right to go behind the returns. We hold the returns themselves to be defective in form and substance, and therefore inadmissible. We go behind them and inquire into the facts, only for the purpose of ascertaining whether, by these valid objections to the mere returns, our rejection of them will have the effect of defeating the will of the people, sought to be fairly expressed at the polls. In the event of such consequences, we might hesitate to reject a vote

upon any defect of form however essential in law. But, in the present case, we feel ourselves bound to adhere to the very letter of the law, in order to defeat a gross and palpable fraud. The consideration that our own party, by this decision, will lose the majority in the legislative assembly, does not make our duty in the premises less solemn and imperative. The elective franchise would be utterly valueless, and free government itself would receive a deadly blow, if so great an outrage as this could be shielded under the cover of mere forms and technicalities. We cannot consent, in any manner, to give the sanction of our respective official positions to such a transaction. Nor can we feel justified to relieve ourselves of the proper responsibility of our offices, in a case where there is no valid return, by submitting the question to the legislative assembly, and, in that very act, giving the parties that might claim to be chosen by this spurious vote the power to decide upon their own election.

In view of the condition of affairs in Kansas for several years past, of the efforts so long made to put in operation here a revolutionary government, and of the fact that this effort was suspended under the belief that the political difficulties of this Territory might at length be fairly adjusted at the polls; if that adjustment should now be defeated and the people deprived of their rightful power under the laws of Congress, by fictitious returns of votes never given, it is our solemn conviction that the pacification of Kansas, through the exercise of the elective franchise, would become impracticable, and that civil war would immediately be recommenced in this Territory, extending, we fear, to adjacent States, and subjecting the government of the Union to imminent peril.

Because, therefore, the paper now under examination is not one of the original poll books by law required to be returned, and from the absence of the oath prescribed by the territorial statutes for the judges of election, the returns being thus clearly invalid and, as we believe, fictitious and simulated, we have, under the circumstances, no alternative but to reject the whole return from the Oxford precinct, and to give the certificates to those who appear to have been elected by virtue of the other regular returns.

R. J. WALKER,
Governor of Kansas Territory.
FRED. P. STANTON,
Secretary.

PROCLAMATION TO THE PEOPLE OF KANSAS.

LECOMPTON, *October 22, 1857.*

Since our proclamation of the 19th instant, rejecting the so-called election returns from the Oxford precinct, in Johnson county, another very similar case has been presented for our official action. It is that of pretended returns from three precincts of McGee county, in this Territory, containing an aggregate of more than twelve hundred votes. This county is located in the extreme southeastern portion of Kansas, is constituted from the lands of the Cherokee Indians which

are not yet open to pre-emption or settlement, and is consequently one of the most sparsely populated counties of the Territory, containing less than one hundred qualified voters, and giving last June but fourteen votes for delegates to the constitutional convention.

Indeed, all persons actually conversant with the number of the population of this county treat with derision the large vote pretended to have been given there. Our information also excludes the idea that there was any incursion of voters from the neighboring State of Missouri, whose people do not seem to have interfered with the recent election. It is, then, quite evident that no such vote as is presented in these pretended returns was given at the late election in this county.

It is not, however, on the grounds above stated that we reject these pretended returns; but feeling confident that no such vote was given, or even one-tenth part of it, we are induced by such considerations to give these alleged returns the most rigid scrutiny, in order to ascertain whether they are genuine, legal, and valid.

From intrinsic evidence on the face of the papers, we are convinced they are not genuine, but simulated and fictitious. Besides, they present no evidence that the oath required by our statutes was administered to the clerks or judges of the election, to secure from each and all of them the "impartial discharge of their duties according to law."

But in addition to these grounds of decision against the legality and validity of these pretended returns there is yet a more conclusive reason which constrains us not to count them. While the names of the voters and of the candidates all appear to be entered on the lists, not one of the offices is mentioned for which the candidates respectively were intended to be designated. We cannot determine, therefore, from the face of these papers for what office any one of the candidates was supported. The uniformity in this particular of these pretended returns from three separate and distinct precincts, especially as the forms are not made up in the same handwriting, nor, with certain exceptions, which only add force to the argument, on the same kind of paper, renders, with other circumstances conclusive to our minds, the conviction that they are, as above stated, fictitious and simulated. It is most extraordinary, also, that not a single vote appears to have been given for any county officers.

In rejecting these papers we do not go behind the returns, because no legal or valid returns are made. Neither in the former instance, nor in this, have we claimed the power to judge of the qualifications of voters, and to exclude votes deemed to be illegal. What constitutes a return is defined by the territorial statutes; and to reject a paper as spurious or fictitious, or because, in points of vital importance, it deviates from the requisitions of the law, and therefore is not a return, in legal parlance, is not going behind the returns, as we have been unjustly charged with doing.

If these papers (like those from the Oxford precinct) would increase by nearly twelve hundred the apparent vote for the candidates of our party, although the offices are not named, our obligation is none the less paramount to reject them, as we now do, as spurious and illegal.

An election secured through our sanction, by frauds so monstrous, would be more fatal to our party than any defeat, however disastrous. We deem it our duty to state that, according to our information, some, if not all the candidates, who it was supposed might claim their election by these frauds, have refused to accept any advantage under them.

These disreputable attempts to destroy the elective franchise, and all popular government which is based upon it, and to subject us to the responsibility of rejecting such papers, or rendering ourselves accomplices in the fraud by giving it our endorsement and sanction, will meet, we doubt not, the serious reprehension of honest men of all parties in this Territory, and throughout the Union. The intense and dangerous excitement produced in this Territory by these enormous frauds has rendered it imperative upon us, in this public official manner, to make known our decision in regard to them, believing that a just and impartial course of action on our part will serve to restore peace and harmony to an agitated and distracted people.

If, instead of relying upon these papers themselves as authentic returns, it is sought to deny that the results are spurious and simulated, we cannot doubt that Congress, upon the question of admitting the delegate, would, by an appropriate committee of one or both Houses despatched to this Territory, and clothed with authority to send for persons and papers, inquire fully into these transactions, in order that the perpetrators of such enormities, and all their accomplices and confederates, may be exposed and punished. In the meantime we shall cause to be published, at an early day, a complete list of the names of these pretended voters, that the people of this Territory, and especially of the localities in which these frauds were perpetrated, may visit them with appropriate condemnation. As these pretended voters are alleged to have come in large bodies from Missouri, under claim of settlements on the Indian reservations, and as we have ascertained that this allegation is unfounded in fact, we deem it a duty to the people of Missouri, in order to prevent unjust prejudice against them in this Territory and throughout the Union, with all its evil consequences, to give them the means, by publishing these lists of fictitious names, to exonerate themselves from such unfounded accusations.

R. J. WALKER,
Governor of Kansas Territory.
FRED. P. STANTON,
Secretary.

To the United States marshal or sheriff of Douglas county, the Territory of Kansas; to Robert J. Walker, governor of the Territory of Kansas, and Frederick P. Stanton, secretary of the same, greeting:

Whereas Samuel J. Jones, William Hall, Hiram Bledsoe, J. H. Danforth, John T. Ector, L. S. Boling, A. P. Walker, William S. Wells, J. C. Thompson, Thomas B. Sykes, and W. B. Winsor, have been duly elected members of the legislative assembly of the Territory

of Kansas, to wit: the above first three named as members of the council, the remainder as members of the house of representatives of the said assembly, appointed by law to meet on the 1st Monday in January, A. D. 1858, from the counties of Johnson and Douglas, of the said Territory, to wit, on the 5th and 6th days of October, 1857, and ought to be commissioned as councilmen and representatives by you. Nevertheless, you not being ignorant of the premises, but disregarding your duty therein, have not only refused, though thereto required by the said members elect to grant them their certificates of election, but yet do refuse so to do in contempt of us, and to the great damage of the said members elect, as by their complaint we have understood.

We, therefore, being willing that speedy justice should be done in their behalf, do command and enjoin you, that, immediately after the receipt of this writ, you do cause the above said members elect to be granted their certificates aforesaid, lest in your default complaint shall again come to us; and how you have executed this writ make known to us at Lecompton, on the 23d day of October, A. D. 1857, and have you then and there this writ.

Witness my hand and seal, this 23d day of October, A. D. 1857.

STERLING G. CATO, [SEAL.]
Judge 2d judicial district, K. T.

To the Hon. S. G. Cato, judge of the second judicial district of the Territory of Kansas.

The undersigned, Robert J. Walker, governor, and Frederick P. Stanton, secretary of Kansas Territory, respectfully state, that they have been served with notice of an order or rule, dated October 23, 1857, from the judge aforesaid, requiring them to show cause why a writ of mandamus should not be issued, upon the petition of Samuel J. Jones, William Hall, Hiram Bledsoe, J. H. Danforth, John T. Ector, L. S. Boling, A. P. Walker, William S. Wells, J. C. Thompson, Thomas B. Sykes, and W. B. Winsor, claiming to have been elected members of the legislative assembly of Kansas, from the counties of Johnson and Douglas in said Territory, to wit, on the 5th and 6th days of October, 1857, and that they ought to be commissioned by us, the first three to the council, and the others to the house of representatives of the said assembly, appointed by law to meet on the 1st Monday in January, A. D. 1858.

The undersigned consider it their duty, in the first place, to protest against the jurisdiction of the said judge invoked in this case, and to demur to this proceeding for the following reasons:

First. Because, by the Constitution and laws of the United States and of this Territory they are not subject, in the discharge of the duties of their respective offices, to the control, supervision, and direction of the said judge, by way of the writ of mandamus.

Second. Because, under the laws of Congress and of this Territory it is made their duty, and not of the said judge, to cast up the votes

given to the candidates for the offices aforesaid, which is to be done by the secretary in the presence of the governor. Whereupon, having ascertained from the returns, found by them to be genuine, legal, and valid, under the provisions of law, the persons who have received the highest number of votes, it is made the duty of the secretary to give certificates of election accordingly. The official duty thus imposed upon the undersigned, involving mixed questions of law and fact, requires by them the exercise of judgment and discretion, and is not a ministerial act in any sense whatever.

Third. Over the exercise of the judgment of the undersigned in the premises, involving controverted questions of law and fact, the said judge has no control by way of mandamus or otherwise, and there is no law authorizing him to direct them in the discharge of their said duties.

Fourth. Because it has been well settled by the Supreme Court of the United States that no State court, nor the district or circuit court of the United States, (except that of the District of Columbia,) has power to issue a mandamus to a federal officer; and as regards said court for the District of Columbia, the power is confined to the control of purely ministerial acts, involving no controversy as to law or facts, and permitting no exercise of judgment or discretion.

Fifth. Because no act of Congress, or of this Territory, authorizes said judge to issue a mandamus to any federal officer in any case whatsoever, nor could any territorial law confer such power.

Sixth. Because it is well settled by the Supreme Court of the United States, and by other judicial tribunals, that a writ of mandamus can be issued only where there is no other remedy, or where there is no authority vested elsewhere to control the officer sought to be directed by mandamus, or to correct his error. Whereas, in this case, if it be true as stated, (which is denied,) that the parties named in this rule or order, have been elected to the offices in said writ assigned to them respectively, viz: to the council and to the house of representatives of the legislative assembly of this Territory, these two bodies being the judges in the last resort of the qualifications and election of their own members, have each respectively the power to correct any alleged errors made by the undersigned, and to admit said persons to the offices aforesaid, which remedy is complete, final and effectual.

Seventh. Because, in the rule or order aforesaid there is a fatal misjoinder, both as to offices and parties—the office of councilman being distinct and different from that of a member of said house of representatives, and the respective rights of each member of both said bodies being separate and independent and incapable of joinder in the same proceeding.

Eighth. Because no precedent can be found in this or any other country where a judge has exercised the power of deciding upon the election of members of a legislative assembly, and that the assumption and usurpation of such authority would be subversive of the rights and liberties of the people, and would enable the judiciary to absorb and concentrate in itself all powers, legislative, executive, and judicial.

Ninth. Because the act of giving certificates of election to the persons named in the order aforesaid would directly affect important

rights of other persons claiming, as we believe justly, to have been duly elected to the said offices, which said persons are not made parties to this proceeding, and have had no notice thereof.

Tenth. Because, prior to the date of the rule or order aforesaid of the 23d October, 1857, the undersigned had duly cast up the votes given at the election aforesaid, held at the time aforesaid, for the counties of Douglas and Johnson, as aforesaid, and finding by the genuine, valid, and legal returns thereof that Lyman Allen, Carmi W. Babcock, and Edwin S. Nash, had the majority for the council, and John Speer, George W. Deitzler, Oliver Barbour, Hiram Appleman, Andrew J. Still, George W. Zinn, Gideon Seymour, and John Lockhart, the majority of votes for members of the house of representatives of the legislative assembly aforesaid, certificates of election were, before the date of said rule or order, issued in due form of law to the said persons respectively for the offices aforesaid, which certificates are now in their possession and beyond the power of the undersigned to recall. It is, therefore, impossible for the undersigned to issue certificates to the other parties named in the said rule or order.

Eleventh. Because, whilst the undersigned cannot doubt that the honorable judge will decline to exercise the jurisdiction claimed in this case, they feel it their duty to say, most respectfully, that they would regard a judgment in this case directing them to issue certificates of election as an usurpation of power, and therefore a nullity, which, under their oath of office, it would be their duty to disregard.

Yet, with a view to prevent a dangerous conflict between the judicial and executive power, and to enable the supreme court of this Territory, or, as a final resort, the Supreme Court of the United States, to correct any error of the judge in this case if judgment should be rendered against them on this rule or order, they pray an appeal to the supreme court of the Territory, it having been decided by the Supreme Court of the United States that a judgment on a mandamus presents a case in which an appeal lies from an inferior to the proper appellate tribunal.

The undersigned beg leave further to state that, if the said judge should command them to issue certificates of election as aforesaid, and should deem it his duty to subject them to imprisonment for disobeying his order, as they would be compelled to do by their conviction of its usurpation and utter nullity, and because the certificates before the date of said rule or order had already been issued to other persons, such is their desire to maintain the peace of this Territory that they will submit individually to such imprisonment, and if any tumult should be apprehended by said judge in consequence of the monstrous frauds which have been perpetrated upon the elective franchise in the recent election, the governor will direct the regular troops of the United States, now here and subject to his order, to act as a *posse comitatus* in aid of the sheriff or marshal who may be directed by said judge to execute said mandate of imprisonment.

R. J. WALKER,
Governor of Kansas Territory.
FRED. P. STANTON,
Secretary.

*Mr. Stanton to Mr. Cass*LECOMPTON, K. T., *November 9, 1857.*

SIR: I hereby tender my resignation of the office of secretary of Kansas Territory, to take effect after the 31st December next.

I have the honor to be, very respectfully, your obedient servant,
FRED. P. STANTON.

Hon. LEWIS CASS, *Secretary of State.*

*Mr. Stanton to the President.*LECOMPTON, *November 11, 1857.*

SIR: Since the date of my letter to the Secretary of State, offering my resignation, to take effect from the 31st December next, I have seen various letters and despatches from Washington to the effect that you and your cabinet had resolved to reprimand the governor and myself for our action upon the Oxford returns. I cannot believe there is any truth in these reports; but if there should be, I beg leave to withdraw my resignation, in order that I may stand upon the merit of the act in question. I would not wish to be understood as disposed to dodge the responsibility of my official conduct in reference to the Oxford and McGee forgeries. If they should be the subject of animadversion on your part, I wish to take my full share of the blame; at the same time I repeat my expression of confidence that you will not be so far misled by any misrepresentations as to approve the hasty condemnation which has been pronounced against us by a few interested individuals.

Very respectfully, your obedient servant,
FRED. P. STANTON.

His Excellency JAMES BUCHANAN,
President of the United States, Washington, D. C.

Mr. Cass to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, November 30, 1857.

SIR: Since, by the absence of Governor Walker from the Territory, you have become acting governor of Kansas, it is proper to call your attention to the views of the President with respect to the administration of that office, as they have been from time to time communicated to Governor Walker. These instructions are, doubtless, within your reach, and will be a sufficient guide to your official action. In those which bear date of March 28, 1857, occurs the following paragraph:

“The regular legislature of the Territory having authorized the assembling of a convention to frame a constitution to be accepted or

rejected by Congress, under the provisions of the federal Constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose under such authority, and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberation. When 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 against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence. The President concurs in the hope expressed by you that the intervention of the military force will not be necessary; but should this just expectation be disappointed, he refers you for the measures you must adopt, and for the necessary authority in that emergency, to the instructions heretofore given by the President of the United States and by this department to your predecessors. Copies of these instructions accompany this communication, and also copies of the instructions heretofore issued by the War Department, and of those issued by the present Secretary of War, respecting the employment of the troops of the United States upon your requisition."

More detailed instructions on the subject of employing military force in aid of the civil power were given in a communication from this department to Governor Walker, dated July 25, 1857, from which the following is an extract:

"It is the duty of the President to take care that the laws are faithfully executed. He is an executive, not a judicial officer, and he has no power to declare authoritatively who shall or shall not vote under the laws of Kansas. By the territorial act of August 29, 1855, to regulate elections, this power is conferred upon the judges of election 'in each county or voting precinct,' and these judges are appointed by the county commissioners, and not by the governor. * * * Thus, the governor seems to have been excluded from any participation in the conduct of elections. It is his duty, required as he is to see that the laws of the Territory are faithfully executed, to take care that the elections shall be free and fair, and to resist whatever violence may be employed to prevent any individual from going to the polls and having his claim to vote decided by the judges; but this decision, whatever it may be, is final, so far as the executive is concerned."

In my despatch of September 2, 1857, the views of the President were still further given in reference to the appropriate duty of the executive in preserving the peace of the Territory and in preventing its citizens, at any legal election, from being restrained by violence from the free exercise of the elective franchise. Governor Walker was then instructed as follows:

"He [the President] confidently relies upon your discretion as well as your firmness, and feels assured that this force will be actually employed in those cases only where there is a resistance to the law, which cannot be overcome by the proper civil officers with the ordinary means at their command: * * * When a civil officer has reason to believe that process placed in his hands will be resisted by force, he has the right to call for the aid of such portions of the *posse comitatus* as he may think necessary; and at this point may rightfully com-

mence the action of the military force. It may be called upon as a part of the *posse comitatus* to aid such officer in the execution of his duty, and while so acting the troops act under his authority."

Thus far the peace of the Territory, to the preservation of which these instructions were all directed, has been happily maintained, and the President earnestly hopes that nothing will occur to interrupt it in the future. It is understood that the constitutional convention which assembled at Leecompton on the first Monday of September has completed its labors, and that the great question which has so long agitated Kansas will be submitted to the decision of its people on the 21st of December next. An opportunity will thus be afforded to remove this question from the arena of political dispute, and to determine whether Kansas shall be a slave State or a free State in the very manner contemplated by its organic law. In order to give the result of the election that full force and authority which it ought to possess upon a subject of so much interest, it is highly important, I need hardly inform you, that it should be conducted under circumstances of the utmost fairness and security. It is for this reason that I have drawn your attention to the previous instructions of the President upon this general subject. The importance of preserving the peace of the Territory at this critical period in its affairs cannot be over estimated, and the President relies upon your most earnest efforts to accomplish this result.

I am, very respectfully, yours,

LEWIS CASS.

FREDERICK P. STANTON, Esq., *Leecompton*.

Mr. Cass to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, December 2, 1857.

SIR: I am instructed by the President to communicate to you that portion of his annual message which he intends to deliver to Congress at the commencement of the approaching session, relating to the affairs of Kansas. I send this by special messenger, so that it may reach you with the least possible delay. You are instructed to have it as extensively published as possible throughout the Territory, before the election of the 21st instant, so that no voter may misunderstand the President's views in regard to proceedings of the late convention in Kansas. It seems due to you and to the people of the Territory, under the peculiar circumstances which now exist there, that these views should not be withheld. I shall also send a copy to General Denver, the Commissioner of Indian Affairs, who left here yesterday for Kansas on business connected with his office, so that you and he may consult together as to the best mode of giving it an immediate

and extensive circulation. For any expense which may be incurred for this purpose, you may draw on the State Department.

I am, &c.,

LEWIS CASS.

FREDERICK P. STANTON, Esq.,
 &c. &c., &c., *Lecompton.*

Mr. Cass to Mr. Stanton.

DEPARTMENT OF STATE,
 Washington, December 3, 1857.

SIR: I enclose to you, by direction of the President, a copy of his message, which was this day communicated to Congress. That portion of it which relates to the affairs of Kansas was transmitted to you on the 2d instant, by a special messenger. You are, therefore, fully informed of the views of the President on this subject, and you will be careful to conform to them in your official conduct. The opportunity is now presented to the people of Kansas of settling forever the agitating question which has so long distracted their attention and interrupted their prosperity, and of obtaining entire control of their own affairs, by procuring the admission of the Territory into the Federal Union as a sovereign State. It is not to be expected that such an opportunity will be allowed to pass unimproved, and you will do every thing in your power to preserve the peace of the Territory at this critical period. Your duties and authority with respect to the freedom and security of elections and the employment of troops, were sufficiently stated in my instructions of November 30, and to these you are referred for your guidance on that subject.

It is rumored, in the public journals, that you intend to call together the legislature before the regular time of their assembling, but the President regards the report as wholly unworthy of credit.

Very respectfully, &c.,

LEWIS CASS.

FREDERICK P. STANTON, Esq.,
 Secretary and Acting Governor of Kansas Territory.

Mr. Stanton to Mr. Cass.

LECOMPTON, December 9, 1857.

SIR: I enclose to you copies of the proclamation, issued on the 1st instant, convening an extra session of the legislature, and also of the communication made to that body at a late hour yesterday afternoon.

It is proper for me to say that this important step of calling the legislature together, was taken only after I had become satisfied that the election ordered by the convention on the 21st instant could not be conducted without collision and bloodshed. The free-State party

had organized vigilance committees throughout the whole Territory, and were assembling in large mass meetings, calculated still further to inflame the public mind. I ascertained that designs of a most desperate character were freely discussed in their private meetings, and that violent measures had probably been agreed upon to be executed at a favorable time. It was to me certain that the mass of the people were determined not to submit to the constitution, nor to participate in the election, but probably to prevent its taking place. A large military force would have been necessary everywhere to enforce order.

Under these circumstances, it was suggested that the legislature might provide for a vote on the adoption or rejection of the constitution, and that this would give satisfaction to the people. Being well convinced that no power could enforce the constitution, and that the demand of the people to vote upon it is only just and proper, and having received the individual pledge of a majority of the members that they would do nothing but provide for something of that kind, I thought the peace of the Territory would be cheaply maintained at the expense of a short session of the legislative assembly.

I have the honor to be, very respectfully,
your obedient servant,
FRED. P. STANTON.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

PROCLAMATION.

To the members of the Legislative Assembly of the Territory of Kansas:

An extraordinary occasion having occurred in the affairs of the Territory, within the meaning of the 30th section of the organic act, which authorizes the legislature to be called together upon such occasions:

I, Frederick P. Stanton, secretary and acting governor, do hereby summon the members of the council and house of representatives of the said Territory to assemble in their respective houses, at Leecompton, on Monday next, the 7th instant, then and there to consider matters of great moment pertaining to the public welfare.

Given under the seal of the Territory, at Leecompton, this first day [L. S.] of December, A. D. 1857.

FRED. P. STANTON.

MESSAGE OF THE ACTING GOVERNOR.

LECOMPTON, *December 8, 1857.*

Fellow-citizens of the Council and House of Representatives:

In the absence of the governor, who, by leave of the President, has gone for a short time to Washington on important public business, and while thus temporarily clothed, by the organic act, with all the

powers and duties of the chief executive office of the Territory, I find myself compelled, by a sense of duty, to call you together in order that you may adopt prompt legislative measures to avert the calamities which imminently threaten the public peace. From the representations of a majority of your own bodies, as well as from other information of an authentic character, I have reason to know that recent events have produced a profound agitation of the public mind, and that a sense of wrong and injustice, whether well or ill-founded, and an apprehension of greater evils to arise therefrom, have aroused the people of the Territory to a condition of dangerous excitement. The proceedings of the late constitutional convention are the immediate cause of this trouble and alarm.

The law passed at the last session of the legislative assembly, providing for the organization of a convention to frame a constitution for the government of Kansas as one of the States of the Union, was adopted at a period when, unfortunately, the people of the Territory were divided by a bitter hostility, resulting from the previous state of commotion and civil war. In consequence of this embittered feeling, and the mutual distrust naturally thereby engendered, one of the parties, constituting a large majority of the people, refrained almost entirely from any participation in the proceedings instituted under the law aforesaid. The census therein provided for was imperfectly obtained from an unwilling people, in nineteen counties of the Territory; while, in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization, enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one-half the counties of the Territory, though these, undoubtedly, contained much the larger part of the population.

At the election which followed in pursuance of the law, only two thousand two hundred persons, being less than one-fourth of the registered voters, participated, in any manner, in the choice of delegates, either by voting for those elected, or for other persons. The average aggregate vote, in favor of the successful candidates, was about eighteen hundred.

It thus appears that in the election of the 15th June last, for delegates to the convention, the great mass of the people purposely refrained from voting, and left the whole proceeding, with all its important consequences, to the active minority, under whose auspices the law had been enacted, and also executed, so far as that could be done by the executive officers, without the concurrence of the majority of the people.

That the refusal of the majority to go into the election for delegates was unfortunate, is now too apparent to be denied. It has produced all the evils and dangers of the present critical hour. It has enabled a body of men, not actually representing the opinions of the people, though regularly and legitimately clothed with their authority, to

prepare for them a form of government, and to withhold the greater part of its most important provisions from the test of popular judgment and sanction. It has created the present profound excitement, consequent upon the apprehension that Congress may admit the State under this constitution, and that the people of Kansas may be thus forced to submit to the operation of a fundamental law, in the adoption of which they have had no actual participation.

It is not my purpose, nor is it necessary, to inquire how far either of the parties into which the people were unhappily divided upon the proceedings in question was justifiable in the course pursued. The only important question which seems now to concern the people, or their representatives, is, as to the legal and political effect of the facts as stated; whether they do, or do not impose upon the whole people an obligation to accept the work of the convention, and to acquiesce in its plan of adopting the constitution and sending it up to Congress for the admission of Kansas as a State into the Union.

If a convention, organized as this was, can be considered as embodying in itself the sovereignty of the people, the difficulty is undoubtedly insuperable, and the omission of the majority to vote last June is past all present remedy. But, in my judgment, such a position cannot be successfully maintained. The fundamental principle of popular self government, and especially of that "republican form" which the Constitution of the United States guaranties to every member of the confederacy, excludes the possibility of the delegation or transfer of their sovereignty, by the people, to any authority whatever. In its very nature that sovereignty which erects governments and endows them with their legitimate powers, can be exercised only by the people themselves. It is incapable of alienation, and is as inseparably inherent in the body of the people as are personal identity and independent will in each individual. The people cannot divest themselves of it any more than an individual can divest himself of his own moral responsibility. Any other theory would involve the absurdity of the possible subjection of the sovereign to its delegated agent. For if the sovereignty be actually delegated or transferred, it may evidently be used to enslave the sovereign people themselves. If the convention could enact a constitution, and put it in force of its own authority, it could readily adopt and perpetuate the most tyrannical provisions; for, if the constitution, as in this case, may be made permanent until 1868, it might equally be made perpetual and unalterable.

In its essential character, when about to frame a State government, the sovereignty of the people of a Territory is identical with that of the people of a State. It must necessarily be equally as plenary and independent; otherwise, the new State would not stand upon an equality with the old ones. The perfect equality of all the members of the confederacy is the very basis of the Federal Constitution. It is true that a Territory cannot become a State of the Union without the consent of Congress. But this discretion on the part of Congress does not imply the power to dictate institutions to the people of the Territory, or in any way to restrain, or limit, or force their sovereignty in the exercise of its high function of framing its own State government.

The only rightful power which Congress has in the premises is to determine when the new community is sufficiently mature to assume an independent government, and to recognize the identity of the people in their new form of a State. That clause of the Constitution guaranteeing to the States a "republican form of government," imposes the obligation to protect the people in their sovereignty, and to prevent its alienation, if that were possible, as a departure from the true republican form. Congress, therefore, has no rightful power to accept a State government which has not received the sanction of the people who are to live under it. The attempt to exercise such a power would be a plain violation of the Constitution. It would be none the less a usurpation, because the people of the State might afterwards regain their violated sovereignty.

The instances in which Congress has recognized and received new States, without the actual submission of their constitutions to the vote of the people, are not necessarily in conflict with the principles now asserted. Doubtless if the people of a Territory should quietly acquiesce in the adoption of a constitution passed for them, they might thus give very satisfactory evidence of their approbation. But no instance can be found on record of a constitution accepted by Congress against the will of a majority of the people, expressed in any distinct manner whatever.

It is not intended herein to assume that the people of the Territory are opposed to the constitution which is to be submitted, in a certain form, on the 21st instant. It is sufficient for the occasion which now convenes the legislative assembly, and for the purpose of this communication, that there is widespread dissatisfaction, threatening to disturb the tranquillity of the people. If there be any means of preventing the discord and possible violence which are so seriously apprehended, as the result of the partial and imperfect election authorized to be held at the time named, under the authority of the constitutional convention, it is the solemn duty of the legislature to ascertain and adopt the measures most effectual for that end.

What appropriate and efficient measure can be adopted in the existing emergency, is a question not without difficulty. Some have proposed a repeal of the act of the last legislature, under which the convention assembled and performed its functions. But inasmuch as that law has been partially executed, it is doubtful whether an act of repeal would have the effect intended. It is certain, that if the constitution were to be really submitted to the people, and they should ratify it by their vote, a legislative repeal between the dates of the submission and of the election, would not affect the validity of the sovereign act of ratification.

The true purpose which, in my judgment, ought to control your legislation on the present occasion, and that which is, perhaps, the most pertinent and practicable within your power, is to provide for the regular and legitimate exercise of the sovereignty of the people in those points in which the convention has attempted to trammel or restrain it; in other words, to provide for a direct vote, under your own authority, upon the adoption of the constitution which is to be

partially submitted, on the 21st instant, under the authority of the constitutional convention.

I have already expressed the grave doubts I entertain as to the power of the legislature in any manner to interfere with the proceedings of the convention. But there can be no question as to your authority to provide, by a suitable law, for a fair expression of the will of the people upon the vital question of approving the constitution. That highest act of sovereignty, the act of delegating appropriate powers in the best form of words and with the proper limitations, to a State organization, so deeply involves the dearest rights and interests of the people, that the very safety of our whole system of self-government demands, in all cases, but especially where any doubt or dissatisfaction prevails, an unequivocal ratification of the constitution to be adopted. Perhaps a majority of the people may accept the instrument now before them, in one or the other of the forms in which it is presented by the convention. In that case there could be no ground of complaint; for I doubt not the whole people will cheerfully acquiesce in the will of the majority, fairly ascertained. On the other hand, if the people should decide against the constitution in both forms, it would not be possible for Congress, without a violation of all popular rights, to admit Kansas into the Union under it. The way would then be fairly open for the passage of any other appropriate measure, by virtue of which the people, relieved from all former embarrassments, could elect their delegates to a convention, and establish their own institutions in their own way, in accordance with the provisions of the organic act and the fundamental principles of self-government.

It is difficult to see what objection could be raised to such a law, passed at the present time, and to be executed contemporaneously with the vote upon the constitution, as provided by the convention. That body itself had its existence from the authority of the legislative assembly. This constitutes its whole title to regularity and legitimacy; for no valid claim can be based upon any supposed recognition by the people, inasmuch as the great majority of them refrained from all participation in the election. If that convention, thus deriving its authority solely from the legislative enactment which called it into existence, can send up to Congress a constitution for the State of Kansas without actually submitting it to the people, the same legislature may, with equal regularity and legality, provide for an independent vote of the people upon the actual ratification of the instrument which is sought to be imposed upon them. It is not to be supposed that Congress will disregard the voice of the people, legally expressed in the manner proposed, whether its decision shall be for or against the constitution.

In pursuance of these views, I recommend the passage of a law directing an election to be held, either under existing regulations, or in pursuance of other suitable provisions to be expressed in the act, in which the people shall be authorized to vote for the constitution in either of the forms presented by the convention, and also against that constitution in both forms. As any law attempting to control the officers of the convention and those acting under them, would be of

more than doubtful validity, and might be wholly disregarded by them, it would be prudent to provide for a separate proceeding under different officers; but it might be of great convenience to the people, and of some efficiency for the objects in view, to hold this election at the same time and at the same places provided for in the proclamation of the president of the late convention, in order that the result may be communicated to Congress, at the earliest practicable moment, as the sovereign will of the people of Kansas.

It would seem to me that this single act will be sufficient to meet the whole emergency and to dispel the excitement which now threatens the peace of the Territory. If it be adopted substantially in the form proposed, without any embarrassing adjuncts, calculated to arouse prejudice and to produce discord, the earnest directness and unity of the act, looking alone to the one great and rightful end of ascertaining the true will of the people and securing its ascendancy, cannot fail to commend it to the approbation of all patriotic hearts in the Territory and throughout the Union.

The laws now prevailing in this Territory provide for the proper punishment of illegal and fraudulent voting, but there is no provision which will reach the case of fraudulent returns. The case of the late Oxford precinct in Johnson county was an enormity so great that it has nowhere been defended or justified. Yet the evil consequences of it are seen in the fact that even the late convention has been so far imposed upon that in its apportionment for the State legislature, under the constitution, it has assigned to Johnson county four representatives, which must necessarily be based on the notoriously false returns from that county. In order to meet the apprehensions naturally growing out of these circumstances, I recommend the adoption of a provision making it felony, with suitable punishment, for any judge or clerk of election knowingly to place on the poll books the names of persons not actually present and voting, or otherwise corruptly to make false returns, either of the election held by order of the convention or of any other election to be held in this Territory.

I cannot close this communication without expressing my deep regret that the absence of the governor in this grave emergency will deprive you of the benefit of his wise and patriotic counsel. His great experience in public affairs, his profound knowledge of the causes and effects of political action, would have been of infinite service to the Territory in this dangerous crisis. Upon all occasions where he has addressed the people, officially or otherwise, upon the affairs of the Territory, he has uniformly proclaimed his determination to exert all his official power and all his personal influence to secure to the people of Kansas the right to decide, fully and independently, upon the adoption of their own institutions. Although my authority as acting governor is wholly independent of his, and cannot commit him in any way for my acts, I conceive that in taking the responsible step of calling you together and making the recommendations now submitted, I am but following to its logical conclusion his whole policy, in all of which I have heretofore cordially concurred.

That your labors may be directed to the attainment of only good

ends, that a benign Providence may preside over your deliberations, and give you wisdom and moderation, and forbearance, such as shall be appropriate and efficient to allay the excitements and dispel the dangers which surround this distracted community, is the earnest hope and prayer with which I commit to you the grave interests upon which you are called to act.

FRED. P. STANTON.

Mr. Cass to Mr. Denver.

DEPARTMENT OF STATE,
Washington, December 11, 1857.

SIR: You have already been informed that Mr. Stanton has been removed from the office of Secretary of the Territory of Kansas, and that you have been appointed in his place. I desire now to state to you distinctly the reason of this change. The convention which met at Lecompton on the 1st of September, had framed a constitution, and had authorized its president to submit the question to the people on the 21st of December, Whether the constitution should be adopted with or without slavery? The importance of the issue could not well be over estimated. It involved the complete and authoritative settlement of the only subject of difference which had seriously agitated Kansas, or interfered with its prosperity. The qualified electors, therefore, to whom this settlement was referred, not only had an unquestionable right to attend at the polls and give their votes on the day appointed, but they were required to do so by the highest considerations of public duty. In the exercise of this right, moreover, they were entitled to adequate protection by the territorial government; and the acting governor was bound to employ all the legal means at his command, to give security and fairness to the election. With the conflicting opinions which prevail in the Territory on the question submitted, he had no right to interfere. They had their appropriate issue at the ballot-box, and to that peaceful arbitrament they might safely be referred. The great objects to be accomplished, in the opinion of the president, were to preserve the peace of the Territory and secure the freedom of the election. Entertaining these views, he was surprised to learn that the secretary and acting governor had, on the 1st of December, issued his proclamation for a special session of the territorial legislature on the 7th instant, only a few weeks in advance of its regular time of meeting, and only fourteen days before the decision was to be made on the question submitted by the convention. This course of Mr. Stanton, the President seriously believes, has thrown a new element of discord among the excited people of Kansas, and is directly at war, therefore, with the peaceful policy of the administration. For this reason he has felt it his duty to remove him.

From these views you will readily understand what the President regards as the chief duty which devolves upon you as Mr. Stanton's

successor. This duty is to preserve the peace in Kansas. Every person entitled to vote under the Constitution ought to have safe access to the polls, and to be free from any restraint whatever in the exercise of the elective franchise. If the civil power is found insufficient for this purpose, the troops of the United States should be employed in aid of it, and it may be a wise precaution to have them stationed in advance within reach of those places where, in your judgment, their services are likely to be required. It is earnestly hoped that the use of military power may be wholly avoided; but violence is always less likely to occur when the means are known to be at hand for its prompt suppression. Should a military force become absolutely necessary to keep the peace, you will find full instructions with reference to the proper mode of employing it in my communications to Governor Walker, of March 28, July 25, and September 2, 1857, and in those subsequently written to Mr. Stanton. Of these last, that of November 30, was taken to Kansas by you, and you had a copy of it. All of them will, doubtless, be found in the archives of the government at LeCompton. They refer prominently to the preservation of peace at certain important elections; but I need hardly inform you that your duty is not intended to be confined to these special occasions. It extends, of course, to the protection of all citizens in the exercise of their just rights, and applies as well to one legal election as to another. The territorial legislature, doubtless, convened on the 7th instant, and, while it remains in session, its members are entitled to be secure and free in their deliberations. Its rightful action must also be respected. Should it authorize an election by the people, for any purpose, this election should be held without interruption, no less than those authorized by the convention. While the peace of the Territory is preserved and the freedom of elections is secure, there need be no fear of disastrous consequences. The public journals contain reports of an intended movement, by a portion of the residents of Kansas, to organize a revolutionary government under the Topeka constitution. It is hardly probable that this report can be well founded. But should the attempt be made, and lead to practical collision with the territorial authorities, the authority of the government must necessarily be maintained, and from whatever quarter it is attempted to interfere, by violence, with the elections authorized by the constitutional convention, or which may be authorized by the legislature, the attempt must be resisted and the security of the elections maintained. The peaceable progress of these elections can obviously occasion no injury to any citizen or any party, because their results can have only their due weight under the Constitution and the laws. It is to be expected, therefore, that no good citizen will endeavor to interfere with them, but that all the people will be contented to see the work of the convention peacefully carried out to its legitimate results and fairly presented to the consideration of Congress.

The President relies upon your firmness and discretion to give effect to these instructions. It is vitally important that the people of Kansas, and no other than the people of Kansas, should have the full determination of the question now before them for decision. It is important also, that, in securing to them the protection to which they

are entitled, great care should be taken not to exercise any illegal authority. On this point I again refer you to my instructions to Governor Walker and Secretary Stanton, which you will regard as directed to yourself.

It is proper to add that no action of the territorial legislature about to meet can interfere with the elections of the 21st of December and the 26th of January, in the mode and manner prescribed by the constitutional convention.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

JAMES W. DENVER, Esq.,

Secretary and Acting Governor of Kansas Territory.

Mr. Walker to Mr. Cass.

WASHINGTON, December 15, 1857.

SIR: I resign the office of governor of the Territory of Kansas. I have been most reluctantly forced to this conclusion after anxious and careful consideration of my duty to the country, to the people of Kansas, to the President of the United States, and to myself.

The grounds assumed by the President in his late message to Congress, and in recent instructions in connexion with the events now transpiring here and in Kansas, admonish me that, as governor of that Territory, it will no longer be in my power to preserve the peace or promote the public welfare.

At the earnest solicitation of the President, after repeated refusals, the last being in writing, I finally accepted this office upon his letter showing the dangers and difficulties of the Kansas question and the necessity of my undertaking the task of adjustment. Under these circumstances, notwithstanding the great sacrifices to me, (personal, political, and pecuniary,) I felt that I could no more refuse such a call from my country, through her Chief Magistrate, than the soldier in battle who is ordered to command a forlorn hope.

I accepted, however, on the express condition that I should advocate the submission of the constitution to the vote of the people for ratification or rejection. These views were clearly understood by the President and all his cabinet. They were distinctly set forth in my letter of acceptance of this office of the 26th of March last, and reiterated in my inaugural address of the 27th of May last, as follows:

“Indeed I cannot doubt that the convention, after having framed a State constitution, will submit it for ratification or rejection by a majority of the then actual *bona fide* resident settlers of Kansas. With these views, well known to the President and cabinet, and approved by them, I accepted the appointment of governor of Kansas. My instructions from the President, through the Secretary of State, under date of the 30th of March last, sustain ‘*the regular legislature of the Territory*’ in ‘*assembling a convention to form a constitution,*’ and they express the opinion of the President that ‘*when 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 AGAINST that instrument ; 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 election be fairly and justly conducted, the constitution will be and ought to be rejected by Congress."

This inaugural most distinctly asserted that it was not the question of slavery merely, (which I believed to be of little practical importance then in its application to Kansas,) but the entire constitution which should be submitted to the people for ratification or rejection. These were my words on that subject in my inaugural: "It is not merely shall slavery exist in or disappear from Kansas, but shall the great principles of self-government and State sovereignty be maintained or subverted?" In that inaugural I proceed further to say that the people "may by a subsequent vote defeat the ratification of the constitution." I designate this as a "great constitutional right," and add "that the convention is the servant and not the master of the people."

In my official despatch to you of 2d June last, a copy of that inaugural address was transmitted to you for the further information of the President and his cabinet. No exception was ever taken to any portion of that address; on the contrary, it is distinctly admitted by the President in his message, with commendable frankness, that my instructions in favor of the submission of the constitution to the vote of the people were "general and unqualified." By that inaugural and subsequent addresses I was pledged to the people of Kansas to oppose by all "lawful means" the adoption of any constitution which was not fairly and fully submitted to their vote for ratification or rejection. These pledges I cannot recall or violate without personal dishonor and the abandonment of fundamental principles, and therefore it is impossible for me to support what is called the Leecompton constitution; because it is not submitted to a vote of the people for ratification or rejection.

I have ever uniformly maintained the principle that sovereignty is vested exclusively in the people of each State, and that it performs its first and highest function in forming a State government and State constitution. This highest act of sovereignty, in my judgment, can only be performed by the people themselves, and cannot be delegated to conventions or other intermediate bodies. Indeed, the whole doctrine of the sovereignty of conventions, as distinct from that of the people—of conventional or delegated sovereignty, as contradistinguished from State or popular sovereignty—has ever been discarded by me, and was never heard of to my knowledge, during the great canvass of 1856. This is the great principle of State rights and State sovereignty maintained in the Virginia and Kentucky resolutions of 1798-'99, sustained by the people in the great political revolution of 1800, and embraced in that amendment to the Federal Constitution, adopted under the auspices of Mr. Jefferson, declaring that "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."

The reservation to "*the States*" is as separate States, in exercising the powers granted by their State constitutions, and the reservation to "*the people*" is to the people of the several States admitted or inchoate, in exercising their sovereign right of framing or amending their State constitution. This view was set forth in my printed address delivered at Natchez, Mississippi, in January, 1833, against nullification, which speech received the complimentary sanction of the great and good Madison, the principal founder of our Constitution, as shown by the letter of the Hon. Charles J. Ingersoll, of Philadelphia, as published in the *Globe*, at Washington, in 1836. What adds much more force to this opinion is the statement then made by Mr. Madison that these were also the views of Mr. Jefferson. By this clause of the Federal Constitution the sovereignty of the *people* of each State is clearly reserved, and especially their own exclusive sovereign right to form in all its entirety their own State constitution.

I shall not enter fully into the argument of this question at this period, but will merely state that this is the position I have ever occupied, and my reasons for entertaining this opinion are clearly and distinctly set forth in a printed pamphlet, published over my signature on the 13th June, 1856, and then extensively circulated, from which I quote as follows :

"Under our confederate system sovereignty is that highest political power which, at its pleasure, creates governments and delegates authority to them. Sovereignty grants powers, but not sovereign powers; otherwise it might extinguish itself by making the creature of its will the equal or superior of its creator. Sovereignty makes constitutions, and through them establishes governments. It delegates certain powers to these governments, distributing the exercise of the granted powers among the legislative, executive, and judicial departments. The Constitution is not sovereign, because it is created by sovereignty. The government is not sovereign for the same reason, much less any department of that government. Having defined sovereignty, we must not confound the power with its source or exercise; that is, sovereignty is one thing, where it resides, or how to be exercised is another. Under the system of European despotisms sovereignty was claimed to reside in kings and emperors, under the sacreligious idea of the 'divine right of kings;' and the blasphemous doctrine was, that sovereigns in legitimate succession, although stained with crimes and blackened with infamy, were clothed by Deity with absolute power to rule their subjects, who held nothing but privileges granted by the crown. Such were the absurd and impious dogmas to which the people of Europe, with few exceptions, have been compelled to submit by the bayonet, sustained by the more potent authority of ignorance and superstition. Under this theory the people were mere cyphers, and crowned heads sub-deities—the sole representatives on earth of the governing power of the Almighty." "Our doctrine is just the reverse, making the people the only source of sovereign power. But what people? With us *sovereignty rests exclusively with the people of each State.*" By the revolution each colony, acting for itself alone, separated from Great Britain, and sanctioned the Declaration of Independence." "Each colony having thus become a State

and each adopting for itself its separate State government, acted for itself alone under the old Continental Congress. Each State acted for itself alone in acceding to the Articles of Confederation in 1778, and each State acted for itself alone in framing and ratifying, each for itself, the Constitution of the United States. Sovereignty, then, with us rests exclusively with the people of each State. The Constitution of the United States is not sovereign, for it was created by States, each exercising for itself the highest political power called sovereignty. For the same reason the government of the United States is not sovereign, nor does it exercise any sovereign powers. It exercises only 'delegated powers,' as declared by the Constitution, and those powers only which are granted by that instrument. Delegated powers are not sovereign powers, but are powers granted by sovereignty. Sovereignty, being this highest political power, cannot be delegated; it is indivisible; it is a unit, incapable of partition. Hence the great error of supposing that sovereignty is divided between the States and the United States.

"The Constitution of the United States is the 'supreme law,' and obligatory as such; but a law is not sovereignty, but an act of sovereignty. All laws imply law-makers; and, in this case, those who framed and ratified this 'supreme law' were those sovereignties called the States, each acting exclusively for itself, uncontrolled by any sister State, except by the moral force of its influence and example. The government of the United States possessing, as we have shown, no sovereignty, but only delegated powers, to them alone it must look for the exercise of all constitutional authority in Territories as well as States, for there is not a single power granted by the Constitution to this government in a Territory which is not granted in a State, except the power to admit new States into the Union, which, as shown by the Madison Papers, the framers of the Constitution (as first demonstrated in my Texas letter) refused to limit to *our then existing Territories*. In the Territories, then, as well as the States, Congress possesses no sovereignty, and can exercise only the powers delegated by the Constitution, and all the powers not thus granted are dormant or reserved powers, belonging, in common territory, to all the States, as co-equal joint tenants there of that highest political power called sovereignty."

It will be perceived that this doctrine, that "sovereignty makes constitutions," that "sovereignty rests exclusively with the people of each State," that "sovereignty cannot be delegated," that "it is inalienable, indivisible," "a unit incapable of partition," are doctrines ever regarded by me as fundamental principles of public liberty and of the Federal Constitution. It will be seen that these views, which I have ever entertained, were not framed to suit any emergency in Kansas, but were my life-long principles, and were published and promulgated by me, in an elaborate argument over my own signature, twelve months before my departure to that Territory, and when I never thought of going to Kansas. These rights I have ever regarded as fully secured to the people of "all the Territories" in adopting their State constitution by the Kansas and Nebraska bill. Such is the construction given to that act by Congress in passing the Minnesota bill, so justly applauded by the

President. Such is the construction of this Kansas act by its distinguished author; not only in his late most able argument, but in addresses made and published by him long antecedent to that date; showing that this sovereign power of the people in acting upon a State constitution is not confined to the question of slavery, but includes all other subjects embraced in such an instrument. Indeed I believe the Kansas and Nebraska bill would have violated the rights of sovereignty reserved to the people of each State by the Federal Constitution if it had deprived them, or Congress should now deprive them, of the right of voting for or against their State constitution. The President, in his message, thinks that the rights secured by this bill to the people in acting upon their State constitution are confined to the slavery question; but I think, as shown in my address before quoted, that "sovereignty is the power that makes constitutions and governments," and that not only the slavery clause in a State constitution but all others must be submitted. The President thinks that sovereignty can be delegated, at least in part. I think sovereignty cannot be delegated at all. The President believes that sovereignty is divisible between conventions and the people, to be exercised by the former on all subjects but slavery, and by the latter only on that question; whereas I think that sovereignty is "inalienable," "indivisible," "a unit incapable of partition," and "that it cannot be delegated," in whole or in part.

It will not be denied that sovereignty is the only power that can make a State constitution, and that it rests exclusively with the people; and if it is inalienable, and cannot be delegated, as I have shown, then it can only be exercised by the people themselves. Under our government we know no sovereigns but the people. Conventions are composed of "delegates." They are mere agents or trustees, exercising not a sovereign, but a delegated power, and the people are the principals. The power delegated to such conventions can properly only extend to the framing of the constitution; but its ratification or rejection can only be performed by the power where sovereignty alone rests, namely, the people themselves. We must not confound sovereign with delegated powers. The provisional authority of a convention to frame a constitution and submit it to the people is a delegated power; but sovereignty alone, which rests exclusively with the people, can ratify and put in force that constitution.

And this is the true doctrine of popular sovereignty, and I know of no such thing, nor does the Federal Constitution recognize it as delegated or conventional sovereignty. The President, in a very lucid passage of his able message, gives unanswerable reasons why the people, and not conventions, should decide the question of slavery in framing a State constitution. He says, very truly, that, from the necessary division of the inchoate State into districts, a majority of the delegates may think one way and the people another, and that the delegates (as was the case in Kansas) may violate their pledges or fail to execute the will of the people. And why does not this reasoning apply with equal force to all other great questions embodied in a State constitution; and why should the question of slavery alone override and extinguish the doctrine of popular sovereignty and the right of

self-government? Most fortunately this is no sectional question, for it belongs alike to the States admitted or inchoate, of the south as of the north. It is not a question of slavery, but of State rights and of State and popular sovereignty, and my objections to the Lecompton constitution are equally strong, whether Kansas under its provisions should be made a free or a slave State. My objections are based upon a violation of the right of self-government and of State and popular sovereignty, and of forcing any constitution upon the people against their will, whether it recognized freedom or slavery. Indeed, the first question which the people ought to decide in forming a government for an inchoate State is, whether they will change or not from a territorial to a State government? Now, as no one who, with me, denies federal or territorial sovereignty, will contend that a territorial legislature is sovereign, or represents sovereignty, or that such legislature (a mere creation of Congress) can transfer sovereignty, which it does not possess, to a territorial convention, this change from a territorial to a State government can only be made by the power where sovereignty rests; namely, the people. Yet a State government is forced upon the people of Kansas by the Lecompton constitution whether they will it or not; for they can only vote for the constitution, and not against it. But, besides the change from a territorial to a State government, which the people alone have a right to make in framing a State constitution, there are many other momentous questions included in that instrument. It involves all the powers of State government. There is the bill of rights, the magna charta of the liberties of a free people; the legislative, executive, and judicial functions; the taxing power; the elective franchise; the great question of education; the sacred relations of husband and wife, parent and child, guardian and ward; and all the rights affecting life, liberty, and property. There is also the question of State debts, of banks and paper money, and whether they shall be permitted or prohibited. As all free government, as stated by Mr. Jefferson in the Declaration of Independence, depends upon the "consent of the governed," how can it be known whether the people would assent to the constitution unless it is submitted to their vote for ratification or rejection? But if acquiescence can be presumed in any case, surely it cannot be in that of Kansas, where so many of the delegates violated their pledge to submit the constitution itself to a vote of the people, where the delegates who signed the constitution represented scarcely one-tenth of the people, and where nearly one-half the counties of the Territory were disfranchised, and (by no fault of theirs) did not and could not give a single vote at the election for delegates to the convention?

I have heretofore discussed this subject mainly on the question that conventions are not sovereign, and cannot rightfully make a State constitution without submission to the vote of the people for ratification or rejection; yet surely even those who differ with me on this point must concede, especially under the Kansas-Nebraska bill, it is only such conventions can be called sovereign as have been truly elected by the people and represent their will. On reference, however, to my address of the 16th September last, on the tax qualification question—a copy of which was immediately transmitted to you

for the information of the President and cabinet—it is evident that the Lecompton convention was not such a body. That convention had vital, not technical, defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the territorial legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention. And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties, where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced, for wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given or could be given for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one-tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a *majority* of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote

given to the delegates who signed the Lecompton constitution on the 7th November last. If, then, sovereignty can be delegated, and conventions, as such, are sovereign, which I deny, surely it must be only in such cases as when such conventions are chosen by the people, which we have seen was not the case as regards the late Lecompton convention. It was for this, among other reasons, that in my inaugural and other addresses I insisted that the constitution should be submitted to the people by the convention, as the only means of curing this vital defect in its organization. It was, therefore, among other reasons, when, as you know, the organization of the so-called Topeka State government, and as a consequence an inevitable civil war and conflict with the troops must have ensued, these results were prevented by my assuring, not the abolitionists, as has been erroneously stated—for my address was not to them, but the people of Kansas—that in my judgment the constitution would be submitted fairly and freely, for ratification or rejection by their vote, and that if this was not done, I would unite with them, the people, as I now do, in “lawful opposition” to such a procedure.

The power and responsibility being devolved exclusively upon me by the President of using the federal army in Kansas to suppress insurrection, the alternative was distinctly presented to me by the question propounded at Topeka of arresting revolution by the slaughter of the people, or of preventing it, together with that civil war which must have extended throughout the Union, by the solemn assurance then given that the right of the people to frame their own government, so far as my power extended, should be maintained. But for this assurance, it is a conceded fact that the Topeka State government, then assembled in legislative session, would have been put into immediate actual operation, and that a sanguinary collision with the federal army and civil war must have ensued, extending, it is feared, throughout the Union.

Indeed, the whole idea of an inaugural address originated in the alarming intelligence which had reached Washington city of the perilous and incipient rebellion in Kansas. This insurrection was rendered still more formidable on my reaching the Territory by the near approach of the assembling of the revolutionary State legislature, and the very numerous mass conventions by which it was sustained. In truth, I had to choose between arresting that insurrection, at whatever cost of American blood, by the federal army, or to prevent the terrible catastrophe, as I did, by my pledges to the people of the exertion of all my power to obtain a fair election, and the submission of the constitution to the vote of the people for ratification or rejection.

My inaugural and other addresses were, therefore, really in the nature of proclamations, (so often issued by Presidents and governors,) with a view to prevent, as they did in this case, civil war and insurrection.

Now, by my oath of office, I was sworn to support the Constitution of the United States, which I have shown, in my judgment, required the submission of the constitution to the vote of the people. I was sworn also to “take care” that the Kansas and Nebraska bill “should be faithfully executed,” which bill, in my judgment, as heretofore

stated, required that the constitution should be submitted to the vote of the people, and I was therefore only performing a solemn duty when, as governor of the Territory, to whose people my first obligations were due, I endeavored to secure to them these results. The idea entertained by some that I should see the Federal Constitution and the Kansas-Nebraska bill overthrown and disregarded, and that, playing the part of a mute in a pantomime of ruin, I should acquiesce by my silence in such a result, especially where such acquiescence involved, as an immediate consequence, a disastrous and sanguinary civil war, seems to me most preposterous. Not a drop of blood has been shed by the federal troops in Kansas during my administration. But insurrection and civil war, extending, I fear, throughout the country, were alone prevented by the course pursued by me on those occasions, and the whole people, abandoning revolutionary violence, were induced by me to go, for the first time, into a general and peaceful election.

These important results constitute a sufficient consolation for all the unjust assaults made upon me on this subject. I do not understand that these assaults have ever received the slightest countenance from the President; on the contrary, his message clearly indicates an approval of my course up to the present most unfortunate difference about the so-called Leecompton constitution. Inasmuch, however, as this difference is upon a vital question, involving practical results and new instructions, it is certainly much more respectful to the President, on my part, to resign the office of governor, and give him an opportunity of filling it, as his right under the Constitution, with one who concurs with him in his present opinions, rather than go to Kansas and force him to remove me by disobedience to his instructions. This latter course, in my judgment, would be incompatible with proper respect for the Chief Magistrate of the Union, inconsistent with the rules of moral rectitude or propriety, and could be adopted with no other view than to force the President to remove me from office. Such a course, it is alleged, would present me to the public as a political martyr in the defence of the great principle of self-government; but to go to Kansas with any such purpose, or with a certain knowledge that such a result must follow, would be alike unjust and improper. My only alternative, then, is that of a respectful resignation, in the hope that Kansas and our beloved country may be shielded from that civil war with which I fear both are threatened, by any attempt to force the so-called Leecompton constitution upon the people of Kansas.

I state it as a fact, based on a long and intimate association with the people of Kansas, than an overwhelming majority of that people are opposed to that instrument, and my letters state that but one out of twenty of the press of Kansas sustains it. Some oppose it because so many counties were disfranchised and unrepresented in the convention. Some, who are opposed to paper money, because it authorizes a bank of enormous capital for Kansas, nearly unlimited in its issues and in the denomination of its notes, from one dollar up and down. Some because of what they consider a Know-Nothing clause, by requiring that the governor shall have been twenty years a citizen of the United States. Some because the elective franchise is not free, as they cannot vote against the constitution, but only on the single issue,

whether any more slaves may be imported, and then only upon that issue by voting for the constitution to which they are opposed. They regard this as but a mockery of the elective franchise, and a perilous sporting with the sacred rights of the people. Some oppose because the constitution distinctly recognizes and adopts the Oxford fraud in apportioning legislative members from Johnson county upon the fraudulent and fictitious *returns*, falsely so called, from that precinct, which recognition of that fraud in the constitution is abhorrent to the moral sense of the people. Others oppose it because, although in other cases the presidents of conventions have been authorized to issue writs of election to the regular Territorial or State officers with the usual judges, with the established precincts and adjudication of returns, in this case unprecedented and vice-regal powers are given to the president of the convention to make the precincts, the judges, and to decide finally upon the returns. From the grant of these unusual and enormous powers, and from other reasons connected with the fraudulent returns of Oxford and McGee, an overwhelming majority of the people of Kansas have no faith in the validity of these returns, and therefore will not vote. Indeed, disguise it as we may to ourselves, under the influence of the present excitement, the facts will demonstrate that any attempt by Congress to force this constitution upon the people of Kansas will be an effort to substitute the will of a small minority for that of an overwhelming majority of the people of Kansas; that it will not settle the Kansas question or localize the issue; that it will, I fear, be attended by civil war, extending, perhaps, throughout the Union; thus bringing this question back again upon Congress and before the people in its most dangerous and alarming aspect.

The President takes a different view of the subject in his message; and, from the events occurring in Kansas as well as here, it is evident that the question is passing from theories into practice; and that, as governor of Kansas, I should be compelled to carry out new instructions, differing on a vital question from those received at the date of my appointment. Such instructions I could not execute consistently with my views of the Federal Constitution, of the Kansas and Nebraska bill, or with my pledges to the people of Kansas. Under these circumstances, no alternative is left me but to resign the office of governor of the Territory of Kansas. No one can more deeply regret than myself this necessity; but it arises from no change of opinion on my part. On the contrary, I should most cheerfully have returned to Kansas to carry out my original instructions, and thus preserve the peace of the Territory, and finally settle the Kansas question by redeeming my pledges to the people.

It is not my intention to discuss, at this time, the peculiar circumstances and unexpected events which have modified the opinions of the President upon a point so vital as the submission of the constitution for ratification or rejection by the vote of the people, much less do I desire any controversy with the President on this subject; yet, however widely my views may differ from those entertained by him on this question—views which I have held all my life, and which, as involving fundamental principles of public liberty and of the Constitution, are

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unchangeable—yet, as regards all those great democratic measures which, I trust, will constitute the policy of his administration in other respects, it will give me pleasure, as a private citizen, to yield my cordial support.

I have said that the slavery question, as a practical issue, had disappeared from Kansas long before my arrival there, and the question of self-government had been substituted in its place. On some future occasion I shall dissipate the delusion which has prevailed upon this subject, and show that after three years' experiment, when I arrived in Kansas there were less than three hundred slaves there, and the number constantly diminishing; that, as proved by the official records of Congress, published and authenticated by those distinguished southern statesmen, John C. Calhoun and Jefferson Davis, the winter climate even of Eastern Kansas is colder than that of New England, and that the pro-slavery territorial convention of Kansas consolidated with the pro-slavery territorial legislature on the 4th of January, 1857, nearly five months before my arrival there, did distinctly abandon the slavery issue, because, as set forth by one of their number, "the pro-slavery party was in a small and admitted minority," "and the co-operation of the free State democrats was invited as the only hope of success, not to make Kansas a slave State, which was conceded to be impossible, but to make it a conservative democratic free State." Even as late as the 3d of July, 1857, when a democratic territorial convention assembled at Lecompton, in consequence of the laws of climate and the well known will of the people, none contended that slavery could be established there. Nor was it until my southern opponents interfered in the affairs of Kansas, and, by denunciation, menace, and otherwise, aided at a critical period by several federal office-holders of Kansas, including the surveyor general, (the president of the convention,) with his immense patronage, embracing many hundred employés, intervened, and, as I believe, without the knowledge or approbation of the President of the United States, produced the extraordinary paper called the Lecompton constitution. Yet this act of intervention by federal officers to defeat the will of the people seems to be sustained by my opponents; whilst my intervention, as it is called, in obedience to my duty and oath of office to support the Federal Constitution, and to take care that our organic law should be fairly executed, by endeavoring to secure to the people of Kansas their rights under that act, is denounced and calumniated. It is still more extraordinary that the hypothetical remarks made by me as regards climate in its connexion with its influence upon the question of slavery in Kansas, after that issue had been abandoned there, which views were consolidating the union between conservative, free State, and pro-slavery Democrats, so as to prevent the confiscation of the small number of slaves then held in Kansas, have been denounced by many distinguished southern senators, who, when the Kansas and Nebraska bill was pending in Congress, and when such remarks from them, if ever, might affect southern emigration, were then loudest in proclaiming that, because of its climate, Kansas could never become a slave State. Indeed, it seems that all persons in and out of Kansas, whether in public or in private life, may publish what opinions they please in regard to these

questions, except the governor of that Territory, who has so little power and no patronage.

And now be pleased to express to the President my deep regret as regards our unfortunate difference of opinion in relation to the Le-compton constitution, and to say to him, that, as infallibility does not belong to man, however exalted in intellect, purity of intention, or position, yet, if he has committed any errors in this respect, may they be overruled by a superintending Providence for the perpetuation of our Union and the advancement of the honor and interest of our beloved country.

In now dissolving my official connexion with your department, I beg leave to tender to you my thanks for your constant courtesy and kindness.

Most respectfully, your obedient servant,

R. J. WALKER,

Hon. LEWIS CASS, *Secretary of State.*

Mr. Cass to Mr. Walker.

DEPARTMENT OF STATE,

Washington, December 18, 1857.

SIR: On Wednesday last I received your communication of the 15th instant, tendering your resignation as governor of Kansas. This resignation is accompanied by a long argument on the affairs of that Territory generally, to which you are well aware it would be improper for the department to reply. If every officer of the government, who feels himself constrained to refuse obedience to the instructions of the President, should pursue this unusual course, and thus place on the files of the appropriate department a criticism on the policy of the administration, no person knows better than yourself to what consequences this might lead. The department must either cause charges and arguments against the President to be filed among the public archives of the country, without contradiction or reply, or it must spend the time which ought to be devoted to the public service in controversies with subordinate officers who may disapprove the President's policy. Whilst duty, therefore, forbids me to enter into a controversial discussion with you on the various topics embraced by your argument, it is proper I should make a remark upon a single point.

You state that the President has changed his policy in regard to Kansas. And why this allegation? Simply because the convention of Kansas, having in the exercise of the right belonging to them, decided that they would not submit the whole constitution to the people, although they have submitted the all-important and dangerous question of slavery, which threatened to convulse the Union, and was alone prominent in the minds of the people throughout every State, he had not treated the submission of this momentous question as a mere nullity. Under these circumstances it was his imperative duty, and this in strict conformity with previous instructions, to take

care that a fair election should be held on this vital question, and thus give peace to the Union. Had he acted in any other manner, merely because he preferred the submission of the constitution generally to the people, his responsibility would have been of the gravest character.

He never entertained or expressed the opinion, that the convention were bound to submit any portion of the constitution to the people, except the question of slavery, much less that the other portions of the constitution would be invalid without such a submission. Had he entertained such an opinion, this would have been in opposition to the numerous precedents which have occurred since the adoption of the Federal Constitution by the different States.

The question of slavery was the all-absorbing question, and you were sent to Kansas with the full confidence of the President to carry out the principles of the Kansas-Nebraska act. With the question, whether Kansas was to be a free or slave State, you were not to interfere. You were to secure to the people of Kansas a free and fair election, to decide this question for themselves. The President was, therefore, happy to learn from your despatch to this department, of the 15th July last, that in all your speeches you had refrained from expressing any opinion as to whether Kansas should be a slave or a free State.

I am instructed to inform you that your resignation of the office of governor of Kansas has been accepted.

I am, sir, your obedient servant,

LEWIS CASS.

Hon. ROBERT J. WALKER, *Washington.*