

Chapter 221 - Douglas Thwarts Buchanan's Attempt To Push Lecompton Through Congress

Time: December 1857

The President's Pro-Southern Bias Leads To A Crucial Blunder In Kansas

Buchanan is shaken by the election upset in Kansas, and by Governor Walker's role in the outcome.

This does not, however, dampen his commitment to supporting the pro-slavery wishes of his long-time Southern friends and supporters in Washington.

His bias in this regard is well known.

For thirteen years, from 1840 to 1853, he shares his residence in Washington with William R. King of Alabama, a relationship that prompts an aging Andrew Jackson to refer to them as "Aunt Nancy" and "Aunt Fancy." Of his seven man cabinet, three will end up serving the Confederacy, with two (Howell Cobb and John Floyd) later becoming Generals in the army and one (Jacob Thompson) serving as its Inspector General. Another member (Aaron Brown) is a slave-holder from Tennessee, while his Attorney General, Jeremiah Black, is an outspoken opponent of the Free-Staters in Kansas. .

Buchanan's social and legal views also align with the South. He is a staunch cultural conservative, forever alarmed by what he sees as the "radical reformists" of New England. He claims to view slavery as a moral evil, but abolishing it would be far too risky for the "the chivalrous men of the South."

Is there any man in this Union who could for a moment indulge the horrible idea of abolishing slavery by the massacre of the high-minded and chivalrous race of men of the South?

Likewise, he is a strict constructionist when it comes to the U.S. Constitution. Along with Chief Justice Taney, he is absolutely convinced that slaves are "property," with no standing in the legal system, and that owners have every right to transport them wherever they desire – including the Kansas Territory. Just as the Lecompton Constitution says.

Finally, above all else, he recognizes that his ambition to win the White House was realized by carrying 14 of the 15 Slave States in the 1856 election. These are the people who put him in office and now is the time to support their legitimate rights to slavery.

His next step will lie in making the case for Lecompton in his first annual address to Congress, scheduled for December 8, 1857.

Time: December 8, 1857

The President Tries To Force The Lecompton Constitution Through Congress

By the time Buchanan prepares his address, Southerners are already threatening secession unless Kansas is admitted as a slave state. Among them is James Henry Hammond, the newly elected Senator from South Carolina, who writes:

Save the Union if you can. But rather than have Kansas refused admission under the Lecompton Constitution, let it perish in blood and fire.

On December 8, 1857 the President begins his state of the union message with a lengthy discussion of the current banking crisis, and of a treaty recently negotiated with Great Britain over Honduras. At long last he turns to Kansas, reminding listeners that the territory was in “alarming condition” on the edge of “civil war” when he took over from Pierce:

It is unnecessary to state in detail the alarming condition of the Territory of Kansas at the time of my inauguration. The opposing parties then stood in hostile array against each other, and any accident might have relighted the flames of civil war. Besides, at this critical moment Kansas was left without a governor by the resignation of Governor Geary.

He then offers a reprise of the events leading up to the Lecompton Constitution, arguing that all legal requirements were met along the way. Delegates to the convention were chosen by an open election – albeit boycotted by “an extensive organization” whose intent has been to “put down the lawful government by force.”

On the 19th of February previous the Territorial legislature had passed a law providing for the election of delegates...for the purpose of framing a constitution preparatory to admission into the Union. At the time of the election...an extensive organization existed in the Territory whose avowed object it was...to put down the lawful government by force and to establish a government of their own under the so-called Topeka constitution. The persons attached to this revolutionary organization abstained from taking any part in the election.

Unfortunately the document drafted by the delegates failed to call for a public vote prior to submission to the U.S. Congress, which led to “apprehension” that slavery would be unfairly imposed on Kansans “against their will.”

The act of the Territorial legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention, and...an apprehension extensively prevailed that a design existed to force upon them a constitution in relation to slavery against their will.

Buchanan claims that the “omission” was not of his doing, that the oversight must be corrected, and that he has “carefully abstained” from taking a position “for or against slavery.”

...On this subject I confess I had never entertained a serious doubt, and therefore in my instructions to Governor Walker of the 28th March last I merely said that when "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." In expressing this opinion it was far from my intention to interfere with the decision of the people of Kansas, either for or against slavery. From this I have always carefully abstained.

In response, the convention “publicly and cheerfully” pledged that such a vote would be taken.

...Everywhere throughout the Union they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the bona fide people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions.

Then begins a legal sleight of hand by the President designed to shut down critics of the Lecompton process. It commences with a reference to the 1854 Kansas-Nebraska Bill which, he says, does not require that the “whole constitution” be voted on -- only that part which relates to “the domestic institution of slavery.”

In the Kansas-Nebraska act, however, this requirement, as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election except that which relates to the "domestic institution" of slavery.

Thus it is perfectly proper that the popsov ballots be narrowly phrased:

The ballots cast at said election shall be indorsed 'constitution with slavery' and 'constitution with no slavery.'

The implication of this phrasing comes next. If the “with slavery” declaration wins, the constitution will be sent to Congress as it stands. But, if it loses, the submission will read: “no slavery shall exist in Kansas except that the right of property in slaves now in the territory shall in no manner be interfered with.”

If there be a majority in favor of the "constitution with slavery," then it is to be transmitted to Congress by the president of the convention in its original form; if, on the contrary, there shall be a majority in favor of the "constitution with no slavery," then the article providing for slavery shall be stricken from the constitution... and it is expressly declared that "no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with...

In other words, regardless of the voting, slaves already in Kansas at the time of admission will be allowed to remain there in perpetuity – an outcome backed according to Buchanan by the “highest judicial tribunal of the country” in the recent Dred Scott decision. It would be a “gross injustice,” he says, if those acting under the U.S. Constitution when they settled in Kansas were subsequently deprived of “their property in slaves” by a subsequently published state constitution.

Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small, but if it were greater the provision would be equally just and reasonable. The slaves were brought into the Territory under the Constitution of the United States and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country, and this upon the plain principle that when a confederacy of sovereign States acquire a new territory at their joint expense both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatsoever is recognized as property by the common Constitution. To have summarily confiscated the property in slaves already in the Territory would have been an act of gross injustice and contrary to the practice of the older States of the Union which have not abolished slavery.

Buchanan’s rationale for Lecompton is not perfect for his Southern audience, who want him to interpret Dred Scott as the end of all limitations on slavery anywhere in the country. But it is as close as they can hope to get at the moment, and it establishes the principle that some level of slavery will exist in all western territories, as long as it materializes in advance of formal admission to the Union.

Now the question becomes whether or not the President can convince his critics, especially those Northern Democrats who regard the Lecompton Constitution as a fraudulent version of popular sovereignty.

Time: December 9 - 18, 1857

Senator Stephen Douglas Risks His Political Future By Firing Back At Buchanan



Stephen Douglas (1813-1861)

Aside from Republicans in the House, the key threat to Buchanan's wish to bully the Lecompton Constitution through Congress becomes Senator Stephen A. Douglas of Illinois, author of the Kansas-Nebraska Act, chief spokesman for the principle of popular sovereignty, and his long-term rival for leadership of the Democratic Party.

For weeks Douglas has been calling for the President to walk away from the Lecompton fiasco and start the entire process over in Kansas. But Buchanan will have none of that, accusing Douglas of disloyalty and threatening him with political reprisals should he fail to get in line.

Douglas is outraged by Buchanan's tactics and decides to fight back, even though the personal stakes for him are very high. His ambition to become President has long rested on sustaining his support in the South and holding his party together against a split over slavery.

If he challenges the Lecompton Constitution both outcomes will be in jeopardy. He decides to plunge forward anyway.

His first moves come on December 9, 1857, the day after Buchanan's annual address, in a speech to the Senate. His words at first appear conciliatory, claiming he "concurred with the general views of (Buchanan's) message."

From there, however, he starts picking away one by one at the details. The President's interpretation of the Kansas-Nebraska Act was a "fundamental error...at the foundation of his whole argument" – followed by the gratuitous explanation that he was "not in the country" for the debate.

Sir, permit me to say, with profound respect for the President of the United States, that I conceive that on this point he has committed a fundamental error, an error which lies at the foundation of his whole argument on this matter. I can well understand how that distinguished statesman came to fall into this error. He was not in the country at the time.

The rest continues in this same vein, ending with a broadside attack on the notion that the proposed vote on the Constitution “with or without slavery” was a fair example of popular sovereignty. This includes a mocking analogy to Napoleon’s elections, which provokes raucous laughter at Buchanan’s expense.

That would be as fair an election as some of the enemies of Napoleon attributed to him when he was elected First Consul. He is said to have called out his troops, and had them reviewed by his officers with a speech, patriotic and fair in its professions, in which he said to them: "Now, my soldiers, you are to go to the election and vote freely just as you please. If you vote for Napoleon, all is well; vote against him, and you are to be instantly shot." That was a fair election. (Laughter.) This election is to be equally fair. All men in favor of the constitution may vote for it — all men against it shall not vote at all.

Finally the coup de gras, the reason why the administration will not support a fair vote on the entire Lecompton Constitution – because it knows that it “would have been voted down by an overwhelming majority.”

Why not let them vote against it? I presume you have asked many a man this question. I have asked a very large number of the gentlemen who framed the constitution, quite a number of delegates, and a still larger number of persons who are their friends, and I have received the same answer from every one of them. I never received any other answer, and I presume we never shall get any other answer. What is that? They say if they allowed a negative vote the constitution would have been voted down by an overwhelming majority, and hence the fellows shall not be allowed to vote at all. (Laughter.)

On December 18, 1857 Douglas – already labeled a “traitor” among several party colleagues – launches his second salvo at Buchanan in a new bill to rerun the entire popular sovereignty process in Kansas from scratch.