

## Chapter 192 - The Topeka Constitution Calls For A Free State Excluding All Blacks

Time: October 23, 1855

### The Free Staters Gather At Their Topeka Convention

On September 19, 1855, the Free State Party in Kansas decide to try to pre-empt their Pro-Slavery opponents by quickly writing and passing their own constitution, and being first to apply to Congress for admission to the Union.

They start the process on October 23 at a Constitutional Convention, held in the town of Topeka, sixty mile southwest from Leavenworth, on the Missouri River.

A total of 37 delegates answer the roll call. They are predominantly Northerners by birth and Democrats by political affiliation. Most are farmers or lawyers, and under forty years of age.

#### Profile Of Topeka Delegates

| <b>Birthplace</b>        | <b>#</b> |
|--------------------------|----------|
| Ohio Valley              | 21       |
| South                    | 12       |
| New England              | 4        |
|                          |          |
| <b>Age</b>               |          |
| Under 30                 | 9        |
| 30-39                    | 16       |
| 40-49                    | 7        |
| 50-59                    | 4        |
| 60+                      | 1        |
|                          |          |
| <b>Occupation</b>        |          |
| Farmers                  | 15       |
| Lawyers                  | 11       |
| Physicians               | 3        |
| Merchants                | 3        |
| Clergymen                | 2        |
| Journalists              | 1        |
| Indian Affairs Agent     | 1        |
| Saddler                  | 1        |
|                          |          |
| <b>Party Affiliation</b> |          |
| Democrats                | 21       |
| Whigs                    | 10       |
| Republicans              | 4        |
| Independents             | 2        |

The two major figures at the convention are the abolitionist Charles Robinson and the anti-black racist, James Henry Lane. Robinson’s July 4, 1855 speech rallied the anti-slavery forces to meet in August and form the Free State Party. Robinson is chosen to preside over the proceedings.

They are joined by John Wakefield, who lost the rigged election for Congressional representative, and other men like Joel Goodin, Colonel Mark Delahay, Marcus Parrott and Orville Brown, who will help shape the Topeka Constitution.

**Some Key Figures At The Free State Convention In Topeka (Fall 1855)**

| Name              | Residence      | Occupation   | Birthplace | Age | Politics    |
|-------------------|----------------|--------------|------------|-----|-------------|
| James Henry Lane  | Lawrence       | Lawyer       | KY         | 33  | Democrat    |
| Charles Robinson  | Lawrence       | Indian agent | Mass       | 37  | Independent |
| John Wakefield    | Elysian Plains | Lawyer       | SC         | 59  | Whig        |
| Joel K. Goodin    | Clear Lake     | Law/Farmer   | Ohio       | 31  | Democrat    |
| Marcus J. Parrott | Leavenworth    | Lawyer       | SC         | 26  | Democrat    |
| Col. Mark Delahay | Leavenworth    | Law/Editor   | Maryland   | 37  | Democrat    |
| Orville Brown     | Osawatomie     | Farmer       | NY         | 44  | Whig        |
| William Graham    | Prairie City   | Physician    | Ireland    | 39  | Democrat    |
| Amory Hunting     | Manhattan      | Physician    | Mass       | 61  | Republican  |
| Robert Klotz      | Pawnee         | Merchant     | Penn       | 35  | Democrat    |
| John Thompson     | Silver Lake    | Saddler      | Penn       | 55  | Democrat    |

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Time: December 15, 1855

**The Topeka Constitution Is Approved Including A “Black Exclusion” Clause**

The convention proves to be highly contentious and lasts for sixteen straight days.

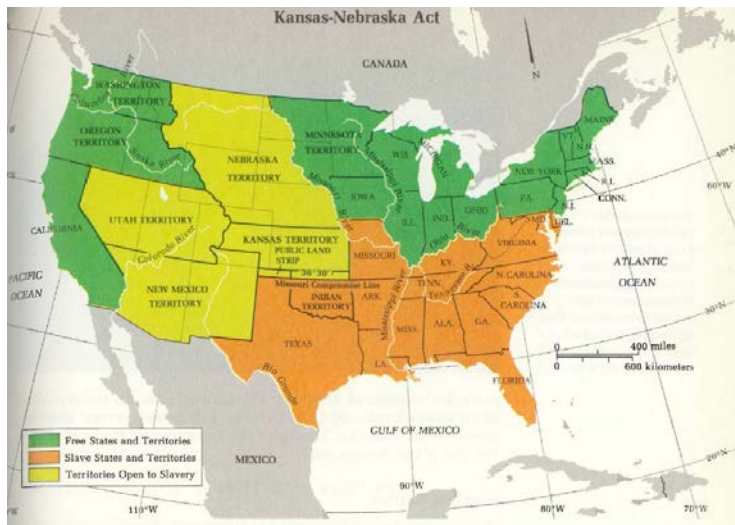
In many ways it is a microcosm of the conflicting views regarding slavery, and blacks in general, that prevails in the North and West.

On one hand there are the Jim Lane supporters who want to secure Kansas for white men by excluding all blacks from residing in its borders.

On the other, the backers of Charles Robinson, some hard core abolitionists, others simply opposed to seeing the further spread of slavery.

They are also a mix of Democrats and Whigs, so party politics come into play.

One contentious issue right away focuses on whether to support reinstatement of the 36’30” boundary line settled in the 1820 Missouri Compromise. Despite the fact that this would assure Kansas of Free State status, a motion is narrowly defeated by a 15-17 margin, a reflection of the number of loyal “pop sov” Democrats and Southerners who are present.



Map Showing That 90% Of Kansas Falls North Of The 36'30" Line

A second proposal originates with the “Lane faction,” calling for a flat-out ban on all blacks – slave or free – from entering or residing within the borders of the new state.

This proposal – known as the “Black Exclusion Clause” – forces each delegate to decide whether their opposition to the spread of slavery is driven by racist aversion to all Africans or by genuine moral empathy for their plight.

The true Abolitionists at the convention – such as Charles Robinson – are appalled by the notion that Free Blacks would be denied entrance into Kansas. Lane’s anti-black racists are likewise appalled by the prospect of any Africans living in their midst. Between the two extremes are the moderates, not on a crusade, but simply wanting to contain the problems with slavery where they belong, in the South.

After much back and forth, a compromise is reached whereby the “Black Exclusion Clause” will be kept separate from the main body of the Constitution, but still offered up to a popular vote alongside it.

When all done, the final Topeka Constitution is an elaborate affair, mirroring prior frameworks, including a familiarly crafted Preamble:

*We, the people of the Territory of Kansas, by our delegates in Convention assembled at Topeka..having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the Province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of the State of Kansas....*

It is followed by twenty-seven separate Articles covering the gamut from a Bill of Rights to the structure and duties of the proposed branches of government, electoral procedures (with a six

month residency requirement), provisions for public institutions, taxing and finances, and so forth.

The subject of slavery is addressed in Article 1. Section 6 declares that Kansas will be a Free State.

*Sec. 6. There shall be no slavery in this state, nor involuntary servitude, unless for the punishment of crime.*

Section 21 prohibits owners from bringing their slaves into the state under the guise of renaming them “indentured servants.”

*Sec. 21. No indenture of any negro or mulatto, made and executed out of the bounds of the State, shall be valid within the State.*

With their Constitution now written, the Free State Party calls for ratification vote on December 15, 1855.