

Chapter 253 –The Pro-Slavery Lecompton Constitution Is Completed



Dates:
November 7,
1857

Sections:

- The Constitution Includes Two Especially Controversial Provisions

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The victory by the Free State Party in the official election of a new legislature appears to spur on the pro-slavery delegates charged with writing the Lecompton Constitution. They end their September 11 recess, reconvening on October 19 and finishing up their work over the next twenty days, on November 7, 1857.

A Typical Sod House On The Kansas Frontier

For the most part, the document they prepare mimics the framework and content adopted by prior western states seeking admission. It calls for the usual three branches of government, establishes apportionment and voting procedures, names a capital, and discusses laws related to land grants, banking and infrastructure.

Then come two assertions that stir lasting controversy – one on slavery, the other on “submission steps.”

Article VII is titled “Slavery” and Section 1 is unequivocal in declaring that slaves are “property,” and that the right to property cannot be legally challenged or qualified in any fashion.

The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same and as inviolable as the right of the owner of any property whatever.

Section 2 says that the Legislature has no power to either force owners to emancipate their slaves or to prevent those entering Kansas from bringing their slaves with them. On the other hand, it can require that owners “treat their slaves with humanity” and, if they fail to do so, to require their sale.

The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent immigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: Provided, That such person or slave be the bona fide property of such immigrants: And provided, also, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to pass laws to permit the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb; and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave sold for the benefit of the owner or owners.

Surprisingly, Sections 3 and 4 also add “protections” for those enslaved in the form of a trial by jury and the prospect of severe punishment for any who would take their life.

Section 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the Legislature shall have no power to deprive them of an impartial trial by petit jury.

Section 4. Any person who shall maliciously dismember, or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offense had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

In effect the Lecompton Constitution guarantees that slavery will be allowed to take hold in Kansas, regardless of whether it is eventually declared a Free or a Slave State – thus making the labels themselves irrelevant to the reality.

But to placate critics of their work, and to feign compliance with the Democratic Party promise of popular sovereignty, the delegates agree to hold a public election scheduled six weeks hence on December 21.

At that time Kansans will be given a vote on the label -- “With Slavery” and “With No Slavery” – rather than on the Constitution itself. As such it is a charade, affecting only the future importation of more slaves after admission, while sanctioning the presence of those already in place.