



*Title: Popular Sovereignty and the
Lecompton Constitution*

GRADES: 6-8

Standards

Kansas HGSS (2020):

- 2.2: The student will analyze the context and draw conclusions about rights and responsibilities.
- 3.2: The student will analyze context and draw conclusions of how societies are shaped by the identities, beliefs, and practices of individuals and groups.

Kansas ELA (2017):

RI.7.9: Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.

Objectives

Knowledge:

- The Kansas-Nebraska Act allowed popular sovereignty to determine the issue of slavery for the state of Kansas.

Skills:

- cause and effect
- reading comprehension (organize and analyze information)
- problem solving

Focus Questions

- How was the issue of slavery to be decided in Kansas?
- What threatened the success of popular sovereignty in Kansas Territory?

Assessment Tools

- Cause and effect graphic organizer
- Compare, contrast, and analyze graphic organizer

Unit Plan Outline

1. Quickly review the Kansas-Nebraska Act, popular sovereignty, and the steps in developing a constitution in Kansas Territory (see the Teaching Instructions section of this lesson).
2. Use the Student Reading and the cause & effect worksheet, "Making Sense of the Lecompton Constitution," to explore the creation of the Lecompton Constitution.
3. Assign groups of students to use the 1858 Congressional Debate cards and the worksheet "Congress Must Act!" to analyze the Lecompton Constitution in terms of popular sovereignty. Have students share possible solutions they believe Congress should have considered.
4. Tell the class what Congress actually decided and the final outcome for the Lecompton Constitution using information in the teaching background portion of this lesson.



TEACHING INSTRUCTIONS

This lesson plan was prepared by the Education and Outreach Division, Kansas State Historical Society for Territorial Kansas Online. This cooperative project of the Kansas State Historical Society and the Kansas Collection, Spencer Research Library, University of Kansas was made possible with funds provided by the Institute of Museum and Library Services--National Leadership Grants Program. This lesson plan may be reproduced for classroom use. Any other use or distribution of this lesson plan MUST CREDIT Territorial Kansas Online; the Institute of Museum and Library Services; the Kansas State Historical Society; and the Kansas Collection, Spencer Research Library, University of Kansas.

Previous Knowledge

Students:

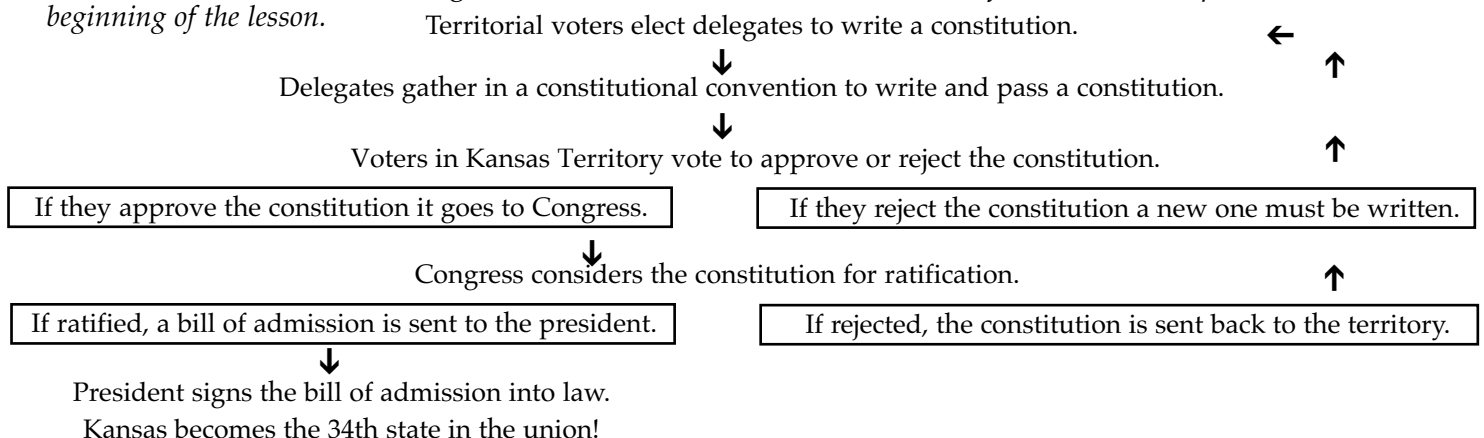
- have a basic understanding of the Kansas-Nebraska Act in terms of how the slavery issue would be determined for the state of Kansas,
- understand the meaning of “popular sovereignty,” and
- have a basic understanding of the Kansas territorial period in regard to the struggle between proslavery and free-state supporters.

Lesson Background

This lesson deals with the issue of popular sovereignty and the Lecompton Constitution. The Kansas-Nebraska Act created Kansas Territory. It also stated that the state constitution would decide the issue of slavery in the state of Kansas. Slavery would be allowed or prohibited depending upon the constitution territorial voters approved. Both sides in the struggle, free-state and proslavery, were determined to have the state constitution reflect their point of view.

The Lecompton Constitution is a confusing issue set in an even more confusing time period, that of Kansas Territory. The Lecompton Constitution is easiest to understand when examined through the series of steps needed to create a state constitution. That is how this lesson explores the constitution. It is also important to remember that in regard to the Lecompton Constitution the issue is popular sovereignty even though the controversy is over slavery. The popular sovereignty process (people deciding) is what will bring about the solution to the controversy (slavery). The Kansas-Nebraska Act gave this power to the people of Kansas Territory, and makes the Lecompton Constitution an important document in the history of both Kansas and the United States.

The Chain of Events in Creating a State Constitution for Kansas – This information will be presented at the beginning of the lesson.



How the Congressional Debate Ended - *This information will be presented at the close of the lesson.*

The U.S. Senate ratified the Lecompton constitution and the House of Representatives rejected it. Unable to get past this point, a congressional committee designed a compromise. It became the last North-South compromise reached before the outbreak of the Civil War. Congress agreed to send their revised Lecompton Constitution back to Kansas Territory for a ratification vote. This would be the third time voters were asked to vote on this constitution.

Technically, this third vote was about a land grant, the amount of land the state of Kansas would receive from the federal government. This land, and any profits from its sale, would belong to the state, not the federal government. In reality, the third vote was designed to give Kansans one last opportunity to accept or reject the Lecompton Constitution. Acceptance would bring immediate statehood, roughly four million acres of land turned over to the state, and 5 percent of the proceeds from the sale of another two million acres. If voters rejected the constitution, Kansas Territory would have to wait until a territorial census established a population of ninety thousand at which time a new constitution could be written and the new state of Kansas would receive a larger land grant .

Kansans voted to reject the Lecompton Constitution and this compromise on August 2, 1858 and waited another two and a half years to enter the Union. On January 29, 1861, Kansas became the thirty-fourth state under the Wyandotte Constitution. Signing the bill of admission for the state of Kansas was one of President Buchanan’s last acts before turning the office of president over to Abraham Lincoln.

Answersheets

	Cause	Effect
Electing delegates	Illegal voting takes place. The majority of votes are cast for proslavery delegates. The majority of legal voters are free-state.	<i>Proslavery delegates are elected to write a state constitution.</i>
Writing the Lecompton Constitution	<i>Proslavery delegates control the constitutional convention.</i>	The Lecompton Constitution is a pro-slavery document. If approved it would allow slavery in the state of Kansas.
Calling for a Vote	Both the proslavery constitutional convention and the free-state legislature claimed to have the authority to call for an election on the Lecompton Constitution.	<i>Two elections are held.</i>
Voting on the Constitution – The First Vote	<i>The proslavery constitutional convention called for the first election. It allowed people to choose between two different wordings in the constitution that allowed for limited or unlimited slavery.</i>	Free-state voters refuse to vote in the first election. The Lecompton Constitution is approved. The constitution is sent to Congress for ratification.
Voting on the Constitution – The Second Vote	The territorial legislature called for the second election. It gave people three choices: reject the entire constitution, approve the constitution with slavery, or approve the constitution with slavery allowed only for Kansans who already owned slaves.	<i>Proslavery voters refuse to vote in the second election. Voters reject the Lecompton Constitution. The territorial legislature asks Congress not to consider the constitution for ratification.</i>

Congress Must Act!

Yes! Territorial voters approved the Lecompton Constitution.	NO! Territorial voters rejected the Lecompton Constitution.
<ul style="list-style-type: none">• Free-state voters refused to vote for delegates and so can't complain about the outcome of the election.• The Kansas-Nebraska Act required the slavery issue be decided by popular sovereignty, and people voted on this issue in the December election.• Free-state voters had the opportunity to vote in December. They chose not to and so let others make the constitutional decision for them.• There was an election in December so the January one doesn't count. The territorial legislature had no authority to ignore the results of the December vote or to try and recall the constitution from Congress.	<ul style="list-style-type: none">• Free-state voters did not vote for delegates because they knew the situation was useless. The proslavery side would win by cheating no matter how many free-state people voted.• The December election was corrupted by fraud and illegal voting.• The constitution was approved at the December election only because of election fraud.• The constitution was rejected by voters in the January election. The overwhelming vote against it in this election was proof that it was only approved in December through cheating.• The constitution was rejected by voters in the second election. It should never have been submitted to Congress.• The territorial legislature had the authority to call for the January election. The Kansas-Nebraska Act gave this body that authority.

1) Do you think there is enough information for Congress to make a decision?

answers may vary

2) What should Congress do? Should it ratify the constitution? Reject it? Do something else? (Explain the reasons for your decision.)

answers will vary

Lesson Extenders

1. Explore the relevance of fraudulent or contested voting practices in the U.S. and world today.



Why is popular sovereignty so important?

Voting is a very important part of the political process in the United States. Our government operates at the will of the people, and the people of our nation voice their desires and opinions by participating in elections. During the years Kansas was a territory voting was extremely important.

In the decade before the Civil War a heated debate took place over whether slavery should be allowed or prohibited in the future state of Kansas. The North wanted Kansas to be a free state, and the South wanted it to be a slave state. Congress was split over this issue and decided to let the people in Kansas Territory make the decision.

The Kansas-Nebraska Act stated that the people of Kansas Territory would decide this issue through the state constitution approved for Kansas. Slavery would be legal in Kansas if the state constitution allowed it. Slavery would be outlawed in Kansas if the state constitution prohibited it.

This solution of popular sovereignty, letting the people decide, seemed like the perfect way to make this decision. Unfortunately, voting in Kansas did not happen as smoothly as many had anticipated. Popular sovereignty is central to the story of the Lecompton Constitution, one of four constitutions written to create the state of Kansas.

Electing Delegates to the Constitutional Convention

Creating the Lecompton Constitution began with choosing the delegates who would write it. In the summer of 1857 territorial voters traveled to area polling places to elect delegates. Legally, only residents of Kansas Territory could vote in a territorial election. In reality, some people voted more than once, and many proslavery Missourians crossed the Missouri-Kansas border to vote. Missourians wanted to make sure their Kansas neighbor got a proslavery constitution. Freestaters chose not to vote at this election because they felt their votes would be a show of support for illegal voting practices in previous elections. The result was that the majority of delegates elected to write the Lecompton Constitution were proslavery. However, the majority of territorial voters in the summer of 1857 supported the free-state cause.

Writing the Lecompton Constitution

Elected delegates gathered at a constitutional convention in the town of Lecompton in the fall of 1857. Here they wrote the Lecompton Constitution. The majority of delegates supported slavery, which resulted in a constitution that would allow slavery in the new state of Kansas.

Calling for a Vote

Next, the completed Lecompton Constitution went before the territorial voters for approval. The proslavery constitutional convention claimed the right to call for a vote on only part of the constitution and to give the constitutional convention's president the power to

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approve or reject the rest of the constitution. The territorial governor and the new free-state controlled legislature disagreed with this. The inability of the constitutional convention delegates and the territorial government to reach an agreement resulted in two elections.

Voting on the Constitution – The First Election

The proslavery Lecompton constitutional convention scheduled the first election. On December 21, 1857, polls opened to allow territorial voters a chance to cast their votes. Voters could not vote to accept or reject the entire constitution. Instead they were asked to choose the wording used to discuss slavery in the constitution. They had two choices—the constitution with slavery or the constitution without slavery. Voters were ONLY voting on the wording of the constitution though, not whether slavery would be allowed or prohibited in Kansas. Voting for the constitution “with slavery” was a vote for slavery to continue freely in Kansas. A vote for the constitution “without slavery” limited the practice of slavery in the state of Kansas to those Kansans who owned slaves at the time Kansas would be admitted as a state. Both choices made slavery legal in the new state of Kansas.

Free-state voters refused to take part in the election. Proslavery voters approved the constitution “with slavery.” After the election the constitutional convention sent the Lecompton Constitution to the United States Congress for ratification. Territorial voters had decided that the state of Kansas should allow slavery without any limitations placed upon it. The constitutional convention said that popular sovereignty had taken place.

Voting on the Constitution – The Second Election

While the territory was preparing for the December election being held by the proslavery constitutional convention, the free-state controlled territorial legislature was planning a second election. The legislature claimed that it was the only governing body authorized to call for an election and that territorial voters had a right to vote on the entire constitution. On the first Monday in January 1858 the legislature held the second election on the Lecompton Constitution. Voters had three choices. This election offered voters the same two choices presented in the December election plus the opportunity to reject the entire constitution. This time proslavery voters refused to take part in the election. The Lecompton Constitution was overwhelmingly rejected by voters. The territorial legislature told Congress that popular sovereignty had taken place, territorial voters had rejected the Lecompton Constitution, and Congress should not consider ratifying it.

What Should Congress Do?

By the end of January 1858 the Lecompton Constitution had been approved by territorial voters, rejected by territorial voters, and submitted to Congress for ratification. For months Congress debated what to do. The discussions in Congress centered not on slavery but on popular sovereignty. The Kansas-Nebraska Act clearly stated that people in the territory, not Congress, had to decide the issue of slavery. The question was, what did they decide?



Name: _____

Making Sense of the Lecompton Constitution

Cause		Effect
Electing delegates	Illegal voting takes place. The majority of votes are cast for proslavery delegates. The majority of legal voters are free-state.	
Writing the Lecompton Constitution		The Lecompton Constitution is a pro-slavery document. If approved it would allow slavery in the state of Kansas.
Calling for a Vote	Both the proslavery constitutional convention and the free-state legislature claimed to have the authority to call for an election on the Lecompton Constitution.	
Voting on the Constitution – The First Vote		Free-state voters refuse to vote in the first election. The Lecompton Constitution is approved. The constitution is sent to Congress for ratification.
Voting on the Constitution – The Second Vote	The territorial legislature called for the second election. It gave people three choices: reject the entire constitution, approve the constitution with slavery, or approve the constitution with slavery allowed only for Kansans who already owned slaves.	



The 1858 Congressional Debate

These ten cards contain arguments presented in Congress in 1858 about ratification of the Lecompton Constitution. Each card contains a quote from a primary source and an argument that rephrases the quote in contemporary language. Use information from these cards to complete the "Congress Must Act!" worksheet.



Primary Source

"The question of slavery was submitted to the election of the people on the 21st of December last [1857], in obedience to the mandate of the constitution."

President Buchanan's message to Congress,
Journal of the Senate, February 2, 1858

Vocabulary for shaded phrases

- as instructed by the Kansas-Nebraska Act, which required that the choice for or against slavery be included in the state constitution

Argument made in this quote: The Kansas-Nebraska Act required people to vote on slavery through their vote for a constitution. People voted on slavery in the first election and so obeyed the requirements of the Kansas-Nebraska Act.



Primary Source

"Here again a fair opportunity was presented to the [freestaters]...to decide this exciting question 'in their own way,' and thus restore the peace of the distracted Territory; but they again refused to exercise the right of popular sovereignty, and again suffered the election to pass by default."

President Buchanan's message to Congress,
Journal of the Senate, February 2, 1858

Vocabulary for shaded phrases

- resolve the slavery issue as they desired
- vote
- lost the election through their refusal to vote

Argument made in this quote: Free-state voters had every opportunity to vote in the first election on the Lecompton Constitution. Their decision not to vote was also their decision to let other voters make the choice.



Primary Source

“This [second] election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the Territorial Legislature which could possibly destroy [the constitution’s] existence or change its character.”

President Buchanan’s message to Congress,
Journal of the Senate, February 2, 1858

Vocabulary for shaded phrases

- Congress was asked to ratify an approved constitution that would allow Kansas
- the territorial legislature did not have the authority to call for an election or recall the constitution from Congress

Argument made in this quote: The second election on the Lecompton Constitution was invalid. Voters had already approved the constitution, and it had already been sent to Congress for ratification. The territorial legislature had no authority to override the first vote or recall the constitution from Congress.



Primary Source

“So glaring, so impudent, and so fearless, had frauds in elections become there, that upon [the] poll-list [in the first election]... you find that the President of the United States, Colonel [Thomas Hart] Benton, and the gentleman from New York were there, it seems, or fictitious votes were put in for them by somebody.”

Kentucky Senator Crittenden’s response to a message from the president, *Appendix to the Congressional Globe*, March 17, 1858

Vocabulary for shaded phrases

- deceits
- list of people who voted
- former Missouri senator who was near death
- Senator Seward

Argument made in this quote: Fraud was widespread in the first vote on the Lecompton Constitution. People who did not live in the territory and were not present at the polls had their names recorded as having voted. For example, the poll book in one precinct said that President Buchanan had been there and voted.



Primary Source

“in one single precinct, where there were only thirty or forty votes to be taken legitimately, there were over twelve hundred [recorded]... In one precinct there were twelve hundred fraudulent and fictitious votes out of twelve hundred and sixty; seven hundred in another, and over six hundred in another; making in the aggregate twenty-six hundred votes in three precincts, entirely fraudulent and fictitious, written out by hundreds on the poll-book after the election was over,...and that is the way this constitution in part has received its sanction.”

Kentucky Senator Crittenden’s response to a message from the president, *Appendix to the Congressional Globe*, March 17, 1858

Vocabulary for shaded phrases

- *geographical subdivision created for voting purposes. (People vote in their assigned precinct.)*
- *illegal and made up*
- *the sum total*
- *list of people who voted in each precinct*
- *been approved*

Argument made in this quote: Widespread fraud in the first election meant that the poll books contained hundreds of votes that had never been cast, or were illegally cast. One reason the constitution received the approval of the voters in the first election was because so many fictitious votes were recorded.



Primary Source

Kansas “shall be received into the Union with or without slavery, as their Constitution may prescribe at the time of their admission.”

Kansas-Nebraska Act

Vocabulary for shaded phrases

- *become a state*
- *according to what the state constitution of Kansas says*

Argument made in this quote: The Kansas-Nebraska Act stated that slavery would be allowed, or not allowed, in the state of Kansas depending upon what the Kansas state constitution said.



Primary Source

“Here, it seems to me, applies that great principle to which I adverted at first, that *the people have a right to govern themselves*. I mean, of course, in **subordination to constitution and law**. This people had no [state] constitution, could have no constitution, while they remained **in territorial dependence**; and when the act of the Territorial Legislature was passed, requiring a vote to be taken on this proposed constitution, they had full authority to pass that law.”

Kentucky Senator Crittenden’s response to a message from the president, *Appendix to the Congressional Globe*, March 17, 1858

Vocabulary for shaded phrases

- *accordance to the constitution and laws*
- *a federal territory*

Argument made in this quote: Kansas is a territory to be governed by the laws laid out in the Kansas-Nebraska Act until the president signed the bill admitting Kansas as a state. The territorial legislature had the authority to call for the second election. People had the right to govern themselves—to cast their votes, participate in the political process, and approve the constitution in its entirety.



Primary Source

Free-state voters “refused to vote for the delegates to the convention...The election was, therefore, **suffered to pass by default**; but of this result the qualified [free-state] electors who refused to vote can never justly complain...the Lecompton convention, according to every principle of constitutional law, was legally **constituted** and was **invested** with power to frame a constitution”

President Buchanan’s message to Congress, *Journal of the Senate*, February 2, 1858

Vocabulary for shaded phrases

- *lost because of their refusal to vote*
- *elected*
- *furnished*

Argument made in this quote: Free-state voters refused to vote for delegates to write the Lecompton Constitution. They chose not to vote and so cannot complain about how the election turned out. Constitutional law was upheld. The Lecompton constitutional convention had the authority to write a constitution.



Primary Source

“It seems to me that the proper and the just mode of regarding this constitution is to consider it as one of a series of acts...[the proslavery territorial government] came to their power by fraud. That was the complaint of the opposing party [the free-staters] in Kansas....[The free-staters] refused to go to any election afterwards. They said ‘What is the use?’ This corrupt minority who have got into power, who have in their hands the means of controlling the election, who are not too good to do it, and who will do it, who have done it, will practice the same means; we shall be again driven from the polls; or, if not, they having the control of the elections and of all the officers who conduct and manage them, will have what returns made they please....So they [the elections] went on—the field abandoned by the majority—and the minority ruling everything in this way....Mr President [of the Senate], convinced as I am from these imperfect views of the evidence in the case, that this instrument is not really the constitution of the people of Kansas...it is made in fraud and for a fraud...”

Kentucky Senator Crittenden’s response to a message from the president, *Appendix to the Congressional Globe*, March 17, 1858

Vocabulary for shaded phrases

- way to think about
- only one of many things that happened
- after it became clear that their votes would not count
- use illegal means to win an election
- the proslavery government that controls
- election results
- freestaters
- these imperfect examples convince me
- created through deceit in order to deceive others about the wish of the people

Argument made in this quote: Free-state voters had endured the effects of fraud and cheating in the voting process from the first territorial election in 1854. Many freestaters were refusing to participate in elections by the time the election for delegates to the Lecompton constitutional convention took place in the summer of 1857. “What is the use?” they said. Proslavery candidates were just going to win anyway because of all the cheating and fraud. The Lecompton Constitution was created from this fraud and so is not really the constitution of the people of Kansas Territory.



Primary Source

"[At the second election] over ten thousand voted against the constitution; and the Legislature of the Territory of Kansas have passed resolutions unanimously protesting against the reception by Congress of this instrument as the constitution of the State, declaring that it was obtained by fraud, and that it has not the sanction or concurrence of any, except a small minority of the people [of the territory]...."

Kentucky Senator Crittenden's response to a message from the president, *Appendix to the Congressional Globe*, March 17, 1858

Vocabulary for shaded phrases

- *submission to Congress*
- *document*
- *approved by voters through deceit*
- *consent or agreement*

Argument made in this quote: The territorial legislature did not believe the Lecompton Constitution should have been submitted to Congress. The large number of people who voted against the constitution in the second election is proof that only cheating at the polls had gotten the constitution approved in the first election.

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Name: _____

Congress Must Act!

Issue: Congress gave residents of the territory the right to decide whether slavery would be allowed or prohibited in the state of Kansas. Voters did this through the state constitution they approved. The choice was theirs. Congress would then ratify the constitution that voters chose.

Problem: Two elections were held on the Lecompton Constitution, and each had a different result. Now, Congress has to decide if popular sovereignty took place in Kansas. If it did, Congress has to do what the voters chose.

Assignment: Read the 1858 Congressional Debate cards and list arguments presented in the columns below. Use this information to complete the remainder of this worksheet.

Yes! Territorial voters approved the Lecompton Constitution.	NO! Territorial voters rejected the Lecompton Constitution.

- 1) Do you think there is enough information for Congress to make a decision?
- 2) What should Congress do? Should it ratify the constitution? Reject it? Do something else? (Explain the reasons for your decision.)