

## AMENDING THE CONSTITUTION: What Pro-lifers can learn from the Abolitionists

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During a trip to Kansas, just prior to the Civil War, President Lincoln described the territory as being in a state of "almost continual struggles, fire, and bloodshed."<sup>1</sup> Indeed, the era would come to be known as "Bleeding Kansas" due to the skirmishes between John Brown's abolitionists and the pro-slavery "Border Ruffians."

The unrest resulted in a political struggle for the state as well. On three separate occasions, the divided factions attempted to ratify state constitutions--two of which were eventually overruled by the citizens of Kansas and the third rejected by the federal government.<sup>2</sup>

In 1859, a fourth and final constitutional convention was called--this time the delegates gathered in Wyandotte. They began work on a Bill of Rights, and the first order of business was Section 1 which in its original form read, "All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending their lives and liberties, acquiring, possessing, and protecting property, and of seeking and obtaining happiness and safety, and the right of all men to the control of their persons, exists prior to law and is inalienable."<sup>3</sup>

By this time, the abolitionists were firmly in control, and it was all but decided that Kansas would become a free state. But this certainty did not deter a vigorous and often bitter debate. The slavery proponents were shrewd. They resisted attempts to put them on record supporting amendments to the section such as "except negroes and mulattoes" and "except persons of color."<sup>4</sup> Instead of insisting that Kansas adopt the pro-slavery position, they appealed to the idea of adhering to federal supremacy—in this case the Fugitive Slave Act of 1850.<sup>5</sup> They declared the new constitution destined for

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<sup>1</sup> Rufus Rockwell Wilson, *Intimate Memories of Lincoln*, (Elmira: Primavera Press, 1945), 199.

<sup>2</sup> The "Topeka Constitution" of 1855 prohibited slavery and was rejected by Congress; the "Lecompton Constitution" of 1857 was ratified at a convention called by the illegitimate, pro-slavery legislature and was defeated at the polls; the "Leavenworth Constitution" of 1858 also prohibited slavery but was defeated at the polls (Virgil W. Dean, Kansas Historical Society, *Topics in Kansas History: Wyandotte Constitutional Convention*, [http://www.kshs.org/research/topics/politics/wyandotte\\_constitutional\\_essay.htm](http://www.kshs.org/research/topics/politics/wyandotte_constitutional_essay.htm)).

<sup>3</sup> *Kansas Constitutional Convention: A Reprint of the Proceedings and Debates of the Convention Which Framed the Constitution of Kansas at Wyandotte in July, 1859* (Topeka: Kansas State Printing Plant, 1920), 271.

<sup>4</sup> Democrat Benjamin Wrigley moved to strike out all phrasing after the word "safety." In response, Abolitionist Solon Otis Thatcher moved to insert "except negroes and mulattoes," and shortly after the motion's defeat, he moved to insert "except persons of color" because "several of those gentlemen have thrust it into our faces how they were determined to put us upon the record, and now I am determined to bring them upon the record. My point is the inhumanity of the proposition. I wish to bring it before the body in all its naked deformity." *Kansas Constitutional Convention*, 271-272.

<sup>5</sup> For example, Mr. Wrigley stated, "I have great respect for the Constitution of the United States; and however much I might dissent from a principle embraced in any particular law enacted under that Constitution, and however much I might desire its amendment or repeal—still, while it is a law, I believe it is the duty of every citizen

failure and too radical for purporting to recognize “all men” as free.<sup>6</sup> After all, how could “all men” residing within the boundaries of the newly formed state be free if they were runaway slaves?

Abolitionist, Dr. James Blunt, recognizing the underhanded tactics of his opponents rose and spoke purposefully against them:

*I desire now to say that **if this section, as reported, does not sufficiently protect the right of the citizens of Kansas against the aggression of this infamous law, I would have it so amended, or an additional section incorporated, that there should be no doubt existing the mind of any one as to the power of the Legislative or Judicial departments in relation to this matter;** for while our democratic friends, in the exercise of their peculiar function of “Union savers,” are eager to exhibit their willingness to obey the commands of their Southern masters, I am equally anxious that the broad prairies of Kansas, that have been so nobly won to freedom, after a long and bloody struggle, shall never be prostituted as the hunting ground for human prey.*

*Now, in the incipient stage of our State organization, I conceive to be the proper time to declare whether we will or will not prostitute ourselves by aiding in the execution of **the most inhuman and infamous statute that ever disgraced a Christian and civilized country.***<sup>7</sup>

Dr. Blunt argues that if the language of Section 1 was not disagreeable enough with the federal slave law to ensure that Kansans would not be subject to it, that it should be amended to reflect the Christian and moral will of the citizenry.

Blunt continues:

*And upon this basis I now propose to stand, believing as I do, that the fugitive slave law is **not only inhuman and infamous, but, to my comprehension, clearly, and beyond doubt, a violation of the Constitution of the United States.***

*But we are told by these “Union-savers,” who stand as sentinels upon the outposts of slavery, with holy horror depicted upon their faces, “that the fugitive act is the **law of the land, and that until it is repealed, as good citizens we are bound to obey it.**” I have not the time, neither do I wish now, to go into a minute examination of this subject, and will only remark briefly, in reply to this kind of argument, that those who made the law*

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to uphold and sustain it. And I believe this section was brought forward here for the express purpose of setting the fugitive slave law of the United States at defiance.” *Kansas Constitutional Convention*, 274.

<sup>6</sup> For example, Democrat William C. McDowell stated, “Our first duty here, Mr. President, as I conceive, under the oath of office we have taken, is to support the Constitution of the United States. So that, if we were to disregard that instrument, and were to make an organic law that would contravene its provisions, and send that law to Congress and ask Congress to admit us into the Union under it, Congress would refuse us admission; because it is not in their province to admit a state whose Constitution or organic law is in contravention with that of the United States.” *Kansas Constitutional Convention*, 275.

<sup>7</sup> *Kansas Constitutional Convention*, 277.

and those who decide upon its constitutionality, **are but human, and liable to err**; and was error their only fault it might be palliated and excused, but the fact is patent and too well known to require proof here, that **the Legislative, Executive and Judicial departments of this government are under the control and patronage of the slave power**, and dare not do otherwise than obey its inexorable demands. And while as a general principle, I am opposed to the disobedience of law, and am ready to submit to any enactment that affects only my material or corporeal interest, however unjust such law may be, yet **I will never submit to any statute that compels me, in violation of conscience and a conception of Christian duty, to commit a crime against the laws of God and humanity.**

I expect to recognize every man upon the free soil of Kansas as a freeman, without reference to the color of his skin, unless I know that he is guilty of a crime that should deprive him of his liberty, and so help me God, while the fugitive slave act remains upon the statute book, **I shall ever consider it a Christian duty to disregard its cruel mandates.** No wicked and infamous law shall ever deter me from feeding the hungry and sheltering the weary, and exercising towards a fellow-being, the kind offices of a common humanity. **“As ye would that others should do unto you, do ye even so unto them,” was the precept of Him whose example is worthy of imitation;** and I desire here to say that the officer who shall ever command me, as one of the posse comitatus, to aid in the execution of the fugitive slave law, offers to me a direct insult, and he may expect me to act accordingly. I will ever hurl defiance at its commands, despite all the penalties of fine and imprisonment that can be enforced by any corrupt and tyrannical power.<sup>8</sup>

This section of Dr. Blunt’s speech is particularly pertinent to today’s battle for the lives of preborn children. Just as the Fugitive Slave Act was wholly lacking constitutional basis, Roe v. Wade is, on its face, unconstitutional.<sup>9</sup> Like the political realities of that day, the three branches of the federal government are now beholden to the abortion industry. As believers, it is our duty to first stand on truth when faced with a decision to obey a particular statute or obey the commands of our Creator.

Dr. Blunt continues with another line of thought:

**I take the position that it is the duty of every State to protect its citizens against unwarrantable Federal aggression, and it is especially the right and duty of the Free States, to protect its citizens against the aggressions of the fugitive slave law. I think it eminently befitting the Convention, in organizing a State government for Kansas, to present itself before the world as occupying a bold and proud position upon this question.**

*The position of protecting the rights of her citizens in this matter, is one peculiarly*

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<sup>8</sup> *Kansas Constitutional Convention, 277-278.*

<sup>9</sup> Current abortion jurisprudence is found nowhere in the U.S. Constitution. Instead, Roe v. Wade purported to find a “right to abortion” in the “penumbras,” or “shadows,” of “the right to privacy” which is also not explicitly mentioned.

***appropriate for the State of Kansas to assume; when we consider the fact, that in the last few years she has been the object of a bitter violent persecution, at the hands of a corrupt democracy, unparalleled in the history of any country. And having, after years of struggling against the combined cohorts of slavery, backed by the strong arm of federal law, emerged from darkness and oppression into the glorious morning of liberty, she should ever value the rights she has achieved, and defend them from all aggressions, from whatever source they may come.***<sup>10</sup>

Contrasting again the plight of the slaves with the wicked predicament preborn boys and girls are in today, one need only to look to the doctrine of state's rights, compelled by the 10<sup>th</sup> Amendment, to curtail an unjust and unconstitutional federal ruling.<sup>11</sup> In particular, Blunt makes reference to the fact that Kansas, in recent years, had been subject to the literal battle against the injustice of slavery. So too, for years, many have considered Wichita to be the forefront in the abortion battle. In these years not too far distant, the "rescue movement" and other pro-life emergencies have been subject to a "bitter persecution" at the hands of an out-of-control and immoral judiciary.<sup>12</sup>

Dr. Blunt ends his speech with a final appeal to the rights of states, the principles of our founders, and our moral obligation to advocate for right.

***I have only to add, that I desire to see this question—of the right of a sovereign State to protect her citizens from federal aggression—fixed definitely, and ratified by the people of Kansas in their organic laws, that our legislative and judicial departments shall hereafter have the landmarks boldly and clearly defined.***

*The eyes of the whole country are turned towards us watching our every act, and nothing will be more gratifying to the friends of freedom throughout the Union, or command more respect from the votaries of slavery, than to see Kansas at this time place herself proudly and firmly upon the ancient doctrine of States rights, or State sovereignty. That doctrine, so nobly contended for by Jefferson and his illustrious compeers—was once the pride of democracy, but which, alas for the cause of human rights, was long since ignored by the latter-day prototypes of that once noble race, to give place to the prevailing democratic idea of the present day—"that the States, and the union of the States, have no higher mission to perform than the extension and perpetuation of human slavery, and that all else must be made subservient to it interests."*

*I deny, Mr. President, that the democracy of today has any affinity with the democracy of Jefferson, and the noble band of patriots who advocated with such earnest zeal the*

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<sup>10</sup> *Kansas Constitutional Convention*, 279.

<sup>11</sup> As opposed to the faulty penumbra-based logic of Roe, the 10<sup>th</sup> Amendment of the U.S. Constitution assures 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."

<sup>12</sup> For example, the 1994 Supreme Court ruling, *NOW v. Scheidler*, allowed pro-abortionists to bring suit against pro-lifers using the RICO laws and, more recently, the Kansas Supreme Court's biased handling of the 107 felony and misdemeanor counts against Planned Parenthood of Kansas and Mid-Missouri.

*doctrine of the rights and sovereignty of the States. But whatever may be the position now occupied by our adversaries, or **whatever wrongs may be committed in the name of democracy**, that the Republicans of Kansas today, in the organization of an independent and sovereign State, incorporate **the principle inculcated by the founders of the Republic**, and in so doing we will not only challenge the admiration of the good and true, but **will have faithfully discharged our duty to ourselves, to our posterity, to our country, and to our God.***<sup>13</sup>

Section 1 was eventually approved borrowing the phrasing from the Declaration of Independence, and it still reads today, “Equal rights. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.”<sup>14</sup>

And yet, this begs the question, “Who are ‘all men?’” Shortly after Section 1 was approved, the original draft of Section 7, which assures our religious liberties, was altered by the delegates—the word “man” replaced by the word “person”—to be all inclusive.<sup>15</sup> Are we to assume, then, that Section 1 only recognizes the equal and inalienable natural rights of white men? The abolitionists won the argument that day, prohibiting slavery in Section 6, but Dr. Blunt never got his amendment recognizing all human beings as free and equal.<sup>16</sup> To be sure, even some of the abolitionists considered it too radical a proposition. This lack of certitude and forethought contributed to another century of discrimination.

We face a similar situation today in which well intentioned and God-fearing, pro-lifers are wary to make the leap of faith required of us. A statute prohibiting surgical abortion would protect children from but one of the methods to which we are vulnerable during this early time in our lives, and what of the countless children killed every day by chemical and medical abortions or destroyed in research labs? Are we willing to stand on principle and work towards the recognition of the preborn as full human persons with an inherent right to life?

Recognizing the rights of people of African descent is not a point of contention today because there is no doubt as to their membership in the species. So too, the personhood of the preborn is not a belief, but an undeniable biological fact. If it is not, one would have to make the case that it is man’s place to determine which living human beings are persons based on the various biological properties they possess. During the days of institutionalized slavery that property was “race”—today the enemies of God declare it to be a question of “age.”

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<sup>13</sup> *Kansas Constitutional Convention*, 279.

<sup>14</sup> *Kansas Constitutional Convention*, 283, 285.

<sup>15</sup> Republican Josiah Lamb offered the following amendment: that “where the word ‘man’ occurs, let it be altered to read ‘person;’ and where the word ‘his’ occurs, let it be altered to read ‘their.’” Lamb noted, “Mr. President, here is a privilege granted to men to worship God according to the dictates of their consciences, while women are left out of the equation.” *Kansas Constitutional Convention*, 287.

<sup>16</sup> Section 6 was approved reading, “There shall be no slavery in this state, and no involuntary servitude, unless for the punishment of a crime, whereof the parties shall have been duly convicted.” *Kansas Constitutional Convention*, 286-287.

Dr. Blunt lived during an abhorrent time when an entire class of living human beings were dehumanized, persecuted, and had no legal recourse. We live in an equally loathsome time. America is in crisis to the tune of at least 1.3 million innocent human persons killed every year before they are born. Many of us alive today could have been killed during this first year of our lives with no legal recourse. We intend to change that, and we are of the opinion that it is long overdue.

It is in this spirit that the Kansas Personhood Amendment proposes to amend Section 1 of the Kansas Bill of Rights and ensure that all people “irrespective of age, race, gender, health, function, condition of dependency, including physical or mental dependency, or method of reproduction, from the beginning of their biological development, including fertilization” are, by way of the supreme law of the state, “guarantee[d] the inalienable rights, equal protection and due process of law.”<sup>17</sup>

In the time it took you to read this, the opportunity to live and love was stolen from so many of those most vulnerable amongst us. It is a tragedy if one is to assume that there is no justice to be had. Join the fight for personhood now!

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<sup>17</sup> Senator Dick Kelsey, *A PROPOSITION to amend section 1 of the bill of rights of the constitution of the state of Kansas, relating to equal rights, 9rs1458*, <http://www.personhoodkansas.com/files/Keith%20Ashley/KansasPersonhoodAmendment.pdf> (2010).