Dred Scott v. Sandford

Scott v. Sandford	
Supreme Court of the United States	
Argued February 11–14, 1856 **Reargued December 15–18, 1856** **Decided March 6, 1857**	
Full case name	*Dred Scott v. John F. A. Sandford*[1]
Citations	60 U.S. 393 [2] (*more*) 19 Howard 393; 15 L. Ed. 691; 1856 WL 8721; 1857 U.S. LEXIS 472
Prior history	Judgment for defendant, C.C. Mo.
Holding	
Judgment reversed and suit dismissed for lack of jurisdiction. 1. Persons of African descent cannot be, nor were ever intended to be, citizens under the U.S. Const. Plaintiff is without standing to file a suit. 2. The Property Clause is only applicable to lands possessed at the time of ratification (1787). As such, Congress cannot ban slavery in the territories. Missouri Compromise is unconstitutional. 3. Due Process Clause of the Fifth Amendment prohibits the federal government from freeing slaves brought into federal territories.	
Court membership	
Case opinions	
Majority	Taney, joined by Wayne, Catron, Daniel, Nelson, Grier, Campbell
Concurrence	Wayne
Concurrence	Catron
Concurrence	Daniel
Concurrence	Nelson, joined by Grier
Concurrence	Grier
Concurrence	Campbell
Dissent	McLean
Dissent	Curtis
Laws applied	
U.S. Const. amend. V; Missouri Compromise	
Superseded by	
U.S. Const. amends. XIII, XIV	

Dred Scott v. Sandford, 60 U.S. 393 [2] (1857), also known as the **Dred Scott Decision**, was a landmark decision by the U.S. Supreme Court that people of African descent brought into the United States and held as slaves (or their descendants,[3] whether or not they were slaves) were not protected by the Constitution and were not U.S. citizens.[4] Since passage of the 14th Amendment to the U.S. Constitution, the decision has not been a precedent case, but retains historical significance as perhaps the worst decision ever made by the Supreme Court.[5]

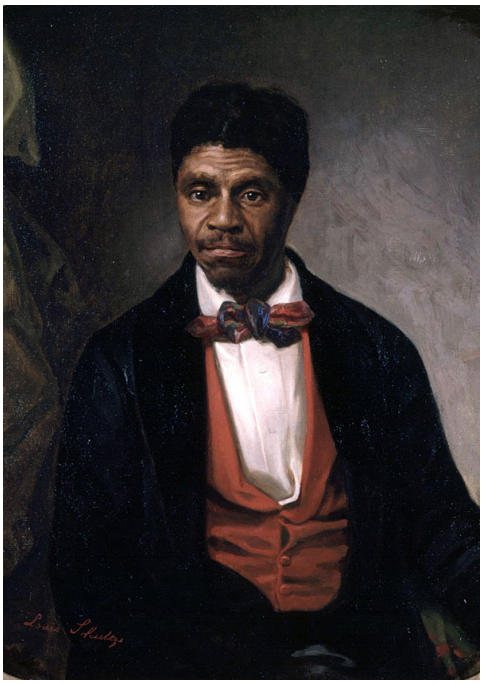
The Opinion of the Court, written by Chief Justice Roger B. Taney, stirred debate. The decision was 7–2, and every Justice besides Taney wrote a separate concurrence or dissent. For the first time since *Marbury v. Madison*, the Court held an Act of Congress to be unconstitutional.[6][7] The decision began by first concluding that the Court lacked jurisdiction in the matter because Dred Scott had no standing to sue in Court, as Scott, and all people of African descent for that matter, were found not to be citizens of the United States. This decision was contrary to the practice of numerous states at the time, particularly Free states, where freed slaves did in fact enjoy the rights of citizens, such as the right to vote and hold public office.[5] The decision of the court is often criticized as being *obiter dictum* because the Court went on to conclude that Congress had no authority to prohibit slavery in federal territories and that, because slaves were not citizens, they could not sue in court. Furthermore, the Court ruled that slaves, as chattels or private property, could not be taken away from their owners without due process.

In reaching this decision, Taney had hoped to settle the issue of slavery in the United States with the Court's decision, but it had the opposite effect. The decision was fiercely debated across the country, as perhaps best exemplified by the Lincoln–Douglas debates of 1858. Abraham Lincoln, the second-ever Republican nominee for President, was able to win the presidential election in 1860; the stopping of the further expansion of slavery was a key Republican party plank. The decision played an important role in the timing of state secession and the Civil War, although it is extreme to say the decision "caused" the war. The decision is acknowledged for the influential role it played in altering the national political landscape: the decision is credited with launching Abraham Lincoln's national political career and ultimately allowing for his election.[5]

Although the Supreme Court has never explicitly overruled the *Dred Scott* case, the Court stated in the *Slaughter-House Cases* that at least one part of it had already been overruled by the Fourteenth Amendment in 1868, which begins by stating, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." To which the Court noted:

> The first observation we have to make on this clause is, that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the *Dred Scott* decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States.[8]

Background



Portrait of Dred Scott

Dred Scott was born a slave in Virginia between 1795 and 1800. In 1820, he was taken by his owner, Peter Blow, to Missouri. In 1832, Blow died and the next year U.S. Army Surgeon Dr. John Emerson purchased Scott. After purchasing Scott, Emerson took him to Fort Armstrong, which was located in Illinois. Illinois, a free state, had been free as a territory under the Northwest Ordinance of 1787, and had prohibited slavery in its constitution in 1819 when it was admitted as a state. Scott remained there until 1836.

In 1836, Scott was again relocated. This time he was taken to Fort Snelling, which was located in part of the Wisconsin territory. As a result, Scott was once again taken to a territory where slavery was “forever prohibited” by the United States Congress under the Missouri Compromise.[5] Moreover, two weeks before he entered the Wisconsin territory, Congress passed the Wisconsin Enabling Act, effectively making slavery illegal in the Wisconsin territory under three distinct statutes.[5] First of all, the act mandated that the laws of Michigan, which was a free state, govern the new territory. Secondly, the Enabling Act made the Northwest Ordinance applicable in the territory, which also prohibited slavery. On top of all of this, the Wisconsin Enabling act reaffirmed and supplemented the Missouri Compromise. Thus, by taking Scott to this territory and keeping him there for two and a half years, Emerson was breaking the law in three distinct ways. This provided Scott with a legitimate basis on which to claim his freedom in court, although Scott did not act on this opportunity.

During his stay at Fort Snelling, Scott was legally married to Harriet Robinson, with the knowledge and consent of Emerson.[5] This potentially provided Scott with an additional basis for claiming his freedom because under the laws of most southern states, a slave could never be legally married. This was so for three reasons. First, slaves could not enter legally binding contracts and marriage is a contract. Secondly, the legal recognition of marriage would undermine the property interest of the slaveholder. Finally, recognition of slave marriages could prompt slaves to demand and claim other rights, such as the right and duty to protect one’s wife from assault by others (including the slave owner). But once again, Scott made no attempt at his freedom.

In 1837, the Army ordered Emerson to Jefferson Barracks Military Post, south of St. Louis, Missouri. Emerson left Scott and Scott's wife Harriet at Fort Snelling, where Emerson rented them out for profit. By hiring Scott out in a free state, Emerson was effectively bringing the institution of slavery into a free state, which was a direct violation of the Missouri Compromise, the Northwest Ordinance, and the Wisconsin Enabling Act.[5]

Before the end of the year, the Army reassigned Emerson to Fort Jessup, Louisiana. There Emerson married Eliza Irene Sanford in February 1838. Emerson then sent for Scott and Harriet, who proceeded to Louisiana to serve their master and his wife. While en route to Louisiana, Scott's daughter Eliza was born on a steamboat underway along the Mississippi River between the Iowa Territory and Illinois. Because Eliza was born in free territory, she was technically born as a free person under both federal and state laws.[5] Moreover, upon entering Louisiana, the Scotts could have once again sued for their freedom, but did not. In all likelihood, the Scotts would have been granted their freedom by a Louisiana court, as Louisiana courts had previously granted slaves their freedom so long as it was shown that they had lived in a free state for a time.[5] This was Louisiana state precedent for over 20 years.

Of course, it makes sense that the Scotts would not pursue their freedom in Louisiana: there is no reason to believe that they would be aware of this Louisiana state precedent. But it is curious that the Scotts made the trip to Louisiana

at all: they made the trip down the Mississippi unsupervised and along the way they passed various free towns. The Scotts could easily have left the ship and taken their freedom. Once again though, they did not.

Toward the end of 1838, the Army again assigned Emerson to Fort Snelling. By 1840, Emerson's wife, Scott, and Harriet returned to St. Louis while Emerson served in the Seminole War. While in St. Louis, they were once again hired out and Emerson was once again breaking federal law. In 1842, Emerson left the Army. He died in the Iowa Territory in 1843; his widow Eliza inherited his estate, including Scott. For three years after Emerson's death, the Scotts continued to work as hired slaves. In 1846, Dred attempted to purchase his and his family's freedom, but Eliza Irene Emerson refused, prompting Dred to finally resort to legal recourse.

Procedural history

First attempt

After failing to purchase the freedom of his family and himself, and with the help of abolitionist legal advisers, Scott sued Emerson for his freedom in a Missouri court in 1846. Scott received financial assistance for his case from the son of his previous owner, Peter Blow.[5] Scott based his legal argument on precedents such as *Somersett v. Stewart*, *Winny v. Whitesides*,[9] and *Rachel v. Walker*,[10] claiming his presence and residence in free territories required his emancipation. Scott's lawyers argued the same for Scott's wife, and further claimed that Eliza Scott's birth on a steamboat between a free state and a free territory had made her free upon birth. While this suit was awaiting trial, Scott and Harriet had their second daughter, Lizzie.

It was expected that the Scotts would win their freedom with relative ease since Missouri courts had previously heard over 10 other cases in which they had freed slaves that had been taken into free territory.[5] But, in June 1847, Scott's suit was dismissed on a technicality: Scott had failed to provide a witness to testify that Scott was in fact a slave belonging to Eliza Emerson.

Scott v. Emerson

At the end of 1847, the judge granted Scott a new trial. Emerson appealed this decision to the Supreme Court of Missouri, which affirmed the trial court's order in 1848.

Due to a major fire, a cholera epidemic, and two continuances, the new trial did not begin until January 1850. While the case awaited trial, Scott and his family were placed in the custody of the St. Louis County Sheriff, who had continued to rent out the services of Scott, placing the rents in escrow. The jury found Scott and his family legally free. Unwilling to accept the loss of four slaves and a substantial escrow account, Emerson appealed to the Supreme Court of Missouri, although by that point she had moved to Massachusetts and transferred advocacy of the case to her brother, John F. A. Sanford.

In November 1852, the Missouri Supreme Court reversed the jury's decision, effectively overturning 28 years of Missouri state precedent. It held that the Scotts were still legally slaves and that they should have sued for freedom while living in a free state. Chief Justice William Scott declared:

> Times are not now as they were when the former decisions on this subject were made. Since then not only individuals but States have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures, whose inevitable consequences must be the overthrow and destruction of our government. Under such circumstances it does not behoove the State of Missouri to show the least countenance to any measure which might gratify this spirit. She is willing to assume her full responsibility for the existence of slavery within her limits, nor does she seek to share or divide it with others.[11]

Scott v. Sanford

In 1853, Scott again sued, but now in federal court. The defendant had become John F.A. Sanford, who had become the executor of John Emerson's estate and had been given control over the case in 1850 when his sister, Emerson's widow, moved to Massachusetts. The grounds for taking the case to federal court were that Sanford was a resident of New York, having returned there in 1853, and that the federal courts could hear the case under diversity jurisdiction provided in Article III, Section 2 of the U.S. Constitution.

At trial in 1854, Judge Robert William Wells directed the jury to rely on Missouri law to settle the question of Scott's freedom. Since the Missouri Supreme Court had held Scott was a slave, the jury found in favor of Sanford. Scott then appealed to the U.S. Supreme Court.

Correspondence with President Buchanan

Historians discovered that after the November Missouri Court ruling, the President-elect James Buchanan wrote to U.S. Supreme Court Associate Justice John Catron, asking whether the case would be decided by the U.S. Supreme Court before his inauguration in March 1857.[12] Buchanan hoped the decision would quell unrest in the country over the slavery issue by issuing a ruling that put the future of slavery beyond the realm of political debate.

Buchanan later successfully pressured Associate Justice Robert Cooper Grier, a Northerner, to join the Southern majority in the Dred Scott decision, to prevent the appearance that the decision was made along sectional lines.[13] By present-day standards, such correspondence would be considered improper *ex parte* contact with a court.

Even under the more lenient standards of that century, Buchanan's applying such political pressure to a member of a sitting court would have been seen as improper.[14] Republicans fueled speculation as to Buchanan's influence on the decision by publicizing that Chief Justice Roger Taney had whispered in Buchanan's ear prior to Buchanan declaring, in his inaugural address, that the slavery question would "be speedily and finally settled" by the Supreme Court.[15][16]

Decision

The Supreme Court ruling was handed down on March 6, 1857, just two days after Buchanan's inauguration. Chief Justice Taney delivered the opinion of the Court, with each of the concurring and dissenting Justices filing separate opinions.[17] In total, six Justices agreed with the ruling; Samuel Nelson concurred with the ruling but not its reasoning, and Benjamin Robbins Curtis and John McLean dissented. The court misspelled Sanford's name in the decision.[18]

Opinion of the Court

There were three questions before the Court. Chief Justice Taney first had to decide whether the Court had jurisdiction. Article III, Section 2, Clause 1 of the U.S. Constitution provides that "the judicial Power shall extend... to Controversies... between Citizens of different States...." The Court held that Scott was not a "citizen of a state" and therefore was unable to bring suit in federal court. Taney spent pages 407-421 of his decision chronicling the history of slave and negro law in the British colonies and American states. His goal was to ascertain whether, at the time the Constitution was ratified, federal law could have recognized Scott (a current slave) as a citizen of any state within the meaning of Article III. Relying upon statements made by Charles Pinckney, who had claimed authorship of the Privileges and Immunities Clause during the debates over the Missouri Compromise,[19] Taney decided: "the affirmative of these propositions cannot be maintained." According to Taney, the authors of the Constitution had viewed all blacks as

> beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect.

The Court also presented a parade of horribles argument, based on the Privileges and Immunities Clause of Article IV, listing what the Court considered to be the inevitable and undesirable effects of granting Mr. Scott's petition:

> It would give to persons of the negro race, ...the right to enter every other State whenever they pleased, ...to sojourn there as long as they pleased, to go where they pleased ...the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went.

If Scott had been a citizen according to Missouri law, then the question of whether the Supreme Court could have jurisdiction would still be an open one, because

> no State can, by any act or law of its own, passed since the adoption of the Constitution, introduce a new member into the political community created by the Constitution of the United States.

Therefore, according to Taney's analysis, nothing in the nation's history or law suggests that Scott's peculiar situation would make him a citizen of the United States, eligible to sue in federal court.

The third, and last, question before the Court was related and likewise evaded by the question of jurisdiction: Did Scott's residency in the free territory of modern-day Minnesota (then part of the Wisconsin Territory) make him a free man? Citing a similar case in Strader v. Graham (1851), Taney deferred to the opinion of Scott's current state's court system on the matter:

> we are satisfied, upon a careful examination of all the cases decided in the State courts of Missouri referred to, that it is now firmly settled by the decisions of the highest court in the State, that Scott and his family upon their return were not free, but were, by the laws of Missouri, the property of the defendant; and that the Circuit Court of the United States had no jurisdiction, when, by the laws of the State, the plaintiff was a slave, and not a citizen.

On this point, Taney also specifically cited the Supreme Court of Missouri's denial of Dred Scott's freedom. Because the United States Supreme Court did not have jurisdiction on this matter, Taney argued, the decisions of the government of Missouri took precedence. Scott could not be a free man.

Despite the conclusion that the Court lacked jurisdiction, however, it went on to decide the second question of the decision (in what Republicans would label its "obiter dictum"):[20] the provisions of the Missouri Compromise declaring it to be free territory were beyond Congress's power to enact. The Court rested its decision on the grounds that Congress's power to acquire territories and create governments within those territories was limited solely to the Northwest Territories, not Louisiana territory, which was acquired well after the signing of the Constitution.

Parrying the Constitution's Article IV, Section 3 ("The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States"), Taney argued that the clause immediately following protected permanent states — those that eventually arose from temporary territories — from those very Rules and Regulations: "...and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

The Court also held that the Fifth Amendment barred any law that would deprive a slaveholder of his property, such as his slaves, upon the incidence of migration into free territory.

This was only the second time in United States history that the Supreme Court had found an act of Congress to be unconstitutional. (The first time was 54 years earlier in *Marbury v. Madison*).

Dissents by Justice Curtis and Justice McLean

Curtis, in dissent, attacked that part of the Court's decision as *obiter dicta*, on the ground that once the Court determined that it did not have jurisdiction to hear Scott's case, it must simply dismiss the action, and not pass judgment on the merits of the claims. The dissents by Curtis and McLean also attacked the Court's overturning of the Missouri Compromise on its merits, noting both that it was not necessary to decide the question, and also that none of the authors of the Constitution had ever objected on constitutional grounds to the United States Congress' adoption

of the antislavery provisions of the Northwest Ordinance passed by the Continental Congress, or the subsequent acts that barred slavery north of 36°30' N.

Nor, these justices argued, was there any Constitutional basis for the claim that blacks could not be citizens. At the time of the ratification of the Constitution, black men could vote in five of the thirteen states. This made them citizens not only of their states but of the United States.[21] Therefore, Justice McLean concluded that the argument that Scott was not a citizen was "more a matter of taste than of law."

Consequences

Perhaps the most immediate consequence of the decision was to trigger the Panic of 1857. Economist Charles Calomiris and historian Larry Schweikart discovered that uncertainty about whether the entire West would suddenly become either slave territory or engulfed in combat like Bleeding Kansas immediately gripped the markets. What was unusual about the initial panic, though, was that it only struck the railroads running east and west—where the impact of the Dred Scott decision would be greatest (the territories). The bonds of east/west railroads collapsed immediately (although north/south-running lines were unaffected), causing, in turn, the near-collapse of several large banks and the runs that ensued. What followed these runs has been called the Panic of 1857, and it differed sharply from the Panic of 1837 in that its effects were almost exclusively confined to the North. Calomiris and Schweikart found this resulted from the South's superior system of branch banking (as opposed to the North's unit banking system), in which the transmission of the panic was minor due to the diversification of the southern branch banking systems. Information moved reliably among the branch banks, whereas in the North, the unit banks (competitors) seldom shared such vital information. In the broader scope, the Panic convinced the South that "Cotton is King" and that it had nothing to fear economically from the North unless a move was made to end the system of slavery.[22]

Prior to *Dred Scott*, Democratic Party politicians had sought repeal of the Missouri Compromise, and were finally successful in 1854 with the passage of the Kansas-Nebraska Act. This act permitted each newly admitted state south of the 40th parallel to decide whether to be a slave state or free state. Now, with *Dred Scott*, the Supreme Court under Taney sought to permit the unhindered expansion of slavery into the territories.

The *Dred Scott* decision, then, represented a culmination of what many at that time considered a push to expand slavery. Southerners at the time, who had grown uncomfortable with the Kansas-Nebraska Act, argued that they had a right, under the federal constitution, to bring slaves into the territories, regardless of any decision by a territorial legislature on the subject. The *Dred Scott* decision seemed to endorse that view. The expansion of the territories and resulting admission of new states would mean a loss of political power for the North, as many of the new states would be admitted as slave states, and counting slaves as three-fifths of a person would add to the slave holding states' political representation in Congress.

Although Taney believed that the decision represented a compromise that would settle the slavery question once and for all by transforming a contested political issue into a matter of settled law, it produced the opposite result. It strengthened Northern slavery opposition, divided the Democratic Party on sectional lines, encouraged secessionist elements among Southern supporters of slavery to make bolder demands, and strengthened the Republican Party.

Reaction

Opponents of slavery fiercely attacked the Dred Scott decision. The *Evening Journal* of Albany, New York, combined two themes and denounced the decision as both an offense to the principles of liberty on which the nation was founded, and a victory for slave states over the free states:[23]

> The three hundred and forty-seven thousand five hundred and twenty-five Slaveholders in the Republic, accomplished day before yesterday a great success — as shallow men estimate success. They converted the Supreme Court of Law and Equity of the United States of America into a propagandist of human Slavery. Fatal day for a judiciary made reputable throughout the world, and reliable to all in this nation, by the learning and the virtues of Jay, Rutledge, Ellsworth, Marshall and Story!
>
> The conspiracy is nearly completed. The Legislation of the Republic is in the hands of this handful of Slaveholders. The United States Senate assures it to them. The Executive power of the Government is theirs. Buchanan took the oath of fealty to them on the steps of the Capitol last Wednesday. The body which gives the supreme law of the land, has just acceded to their demands, and dared to declare that under the charter of the Nation, men of African descent are not citizens of the United States and can not be — that the Ordinance of 1787 was void — that human Slavery is not a local thing, but pursues its victims to free soil, clings to them wherever they go, and returns with them — that the American Congress has no power to prevent the enslavement of men in the National Territories — that the inhabitants themselves of the Territories have no power to exclude human bondage from their midst — and that men of color can not be suitors for justice in the Courts of the United States!

That editorial ended on a martial note:

> ...All who love Republican institutions and who hate Aristocracy, compact yourselves together for the struggle which threatens your liberty and will test your manhood!

Many abolitionists and some supporters of slavery believed that Taney was prepared to rule, as soon as the issue was presented in a subsequent case, as for instance, Lemmon v. New York, that the states had no power to prohibit slavery within their borders and that state laws providing for the emancipation of slaves brought into their territory or forbidding the institution of slavery were likewise unconstitutional. Abraham Lincoln stressed this danger during his famous "House Divided" speech at Springfield, Illinois, on June 16, 1858:

> Put this and that together, and we have another nice little niche, which we may, ere long, see filled with another Supreme Court decision, declaring that the Constitution of the United States does not permit a State to exclude slavery from its limits. ...We shall lie down pleasantly dreaming that the people of Missouri are on the verge of making their State free, and we shall awake to the reality instead, that the Supreme Court has made Illinois a slave State.

That fear of the next Dred Scott decision shocked many in the North who had been content to accept slavery as long as it was confined within its present borders. It also put the Northern Democrats, such as Stephen A. Douglas, in a difficult position. The Northern wing of the Democratic Party had supported the Kansas–Nebraska Act of 1854 under the banner of popular sovereignty. They argued that even if Congress did not bar the expansion of slavery into those territories, the residents of those territories could prohibit it by territorial legislation. The Dred Scott decision squarely stated that they could not exercise such prohibition, even though, strictly speaking, that issue was not before the Court.

Without challenging the Court's decision directly, Douglas attempted to overcome that obstacle by creating his Freeport Doctrine. Douglas insisted that, even if a territory could not bar slavery outright, the institution could not take root without local police regulations to protect it and a territory could refuse to pass such local support.

This doctrine was wholly unacceptable to Southern Democrats, who reached a different conclusion from the same premise. They argued that if hostile territorial governments could obstruct their right to bring their slaves into a territory by refusing to protect that right, then Congress must intervene to pass a federal slave code for all the

territories. They often coupled this position with threats to secede if Congress did not comply.

At the same time, Democrats characterized Republicans as lawless rebels, provoking disunion by their unwillingness to accept the Supreme Court's decision as the law of the land. Many Northern opponents of slavery offered a legalistic argument for refusing to recognize the Dred Scott decision as binding. As they noted, the Court's decision began with the proposition that the federal courts did not have jurisdiction to hear Scott's case because he was not a citizen of the State of Missouri. Therefore, so the opponents argued, the remainder of the decision concerning the Missouri Compromise was unnecessary (*i.e.*, beyond the Court's power to decide) and therefore a passing remark rather than an authoritative interpretation of the law (i.e., *obiter dictum*). Douglas attacked this position in the Lincoln–Douglas debates:

> Mr. Lincoln goes for a warfare upon the Supreme Court of the United States, because of their judicial decision in the Dred Scott case. I yield obedience to the decisions in that court—to the final determination of the highest judicial tribunal known to our constitution.

Southern supporters of slavery claimed that the Dred Scott decision was essential to the preservation of the union. As the *Richmond Enquirer* stated:

> Thus has a politico-legal question, involving others of deep import, been decided emphatically in favor of the advocates and supporters of the Constitution and the Union, the equality of the States and the rights of the South, in contradistinction to and in repudiation of the diabolical doctrines inculcated by factionists and fanatics; and that too by a tribunal of jurists, as learned, impartial and unprejudiced as perhaps the world has ever seen. A prize, for which the athletes of the nation have often wrestled in the halls of Congress, has been awarded at last, by the proper umpire, to those who have justly won it. The *"nation"* has achieved a triumph, *"sectionalism"* has been rebuked, and abolitionism has been staggered and stunned. Another supporting pillar has been added to our institutions; the assailants of the South and enemies of the Union have been driven from their *point d'appui*; a patriotic principle has been pronounced; a great, national, conservative, union saving sentiment has been proclaimed.

While some supporters of slavery treated the decision as a vindication of their rights within the union, others treated it as merely a step to spreading slavery throughout the nation, as the Republicans claimed. Convinced that any restrictions on their right to own slaves and to take them anywhere they chose were unlawful, they boasted that the coming decade would see slave auctions on Boston Common. These Southern radicals were ready to split the Democratic Party and — as events showed — the nation on that principle.

Frederick Douglass, a prominent African-American abolitionist who thought the decision unconstitutional and the Chief Justice's reasoning inapposite to the founders' vision, prophesied that political conflict could not be avoided.

> The highest authority has spoken. The voice of the Supreme Court has gone out over the troubled waves of the National Conscience.... [But] my hopes were never brighter than now. I have no fear that the National Conscience will be put to sleep by such an open, glaring, and scandalous tissue of lies....[24]

The Scott family's fate

The sons of Peter Blow, Scott's first owner, purchased emancipation for Scott and his family on May 26, 1857. Their gaining freedom was national news and celebrated in northern cities.

Scott worked in a hotel in St. Louis, where he was considered a local celebrity. He died of tuberculosis only eighteen months later, on November 7, 1858. Harriet died on June 17, 1876.[25]

Later references

Justice John Marshall Harlan was the lone dissenting vote in the 1896 Supreme Court *Plessy v. Ferguson*, which legalized racial segregation and created the concept of "separate but equal." In his dissent Harlan wrote that the majority's opinion would "prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott case."[26]

Charles Evans Hughes, writing in 1927 on the Supreme Court's history, described *Dred Scott v. Sandford* as a "self-inflicted wound" from which the court would not recover for over a decade.[27][28]

In a memo to Justice Robert H. Jackson in 1952 (for whom he was clerking at the time) on the subject of *Brown v. Board of Education*, future Chief Justice William H. Rehnquist wrote that "*Scott v. Sandford* was the result of Taney's effort to protect slaveholders from legislative interference."[29]

Justice Antonin Scalia made the comparison between *Planned Parenthood v. Casey* (1992) and Dred Scott in an effort to see *Roe v. Wade* overturned:

> [D]red Scott...rested upon the concept of "substantive due process" that the Court praises and employs today. Indeed, Dred Scott was very possibly the first application of substantive due process in the Supreme Court, the original precedent for...Roe v. Wade.[30]

Scalia noted that the Dred Scott decision, written and championed by Roger B. Taney, left the justice's reputation irrevocably tarnished. Taney, while attempting to end the disruptive question of the future of slavery, wrote a decision that aggravated sectional tensions and was considered to contribute to the American Civil War.[31]

Notes

[1] While the name of the case is *Scott vs. Sandford*, the respondent's surname was actually "Sanford". A clerk misspelled the name, and the court never corrected the error. Vishneski, John (1988). "What the Court Decided in Dred Scott v. Sandford". *The American Journal of Legal History* (Temple University) **32** (4): 373–390. doi:10.2307/845743. JSTOR 845743.

[2] https://supreme.justia.com/us/60/393/case.html

[3] "Scott v. Sandford" (http://www.law.cornell.edu/supct/html/historics/USSC_CR_0060_0393_ZO.html). Law.cornell.edu. . Retrieved 2012-07-26.

[4] Frederic D. Schwarz (http://www.americanheritage.com/articles/magazine/ah/2007/1/2007_1_72.shtml) "The Dred Scott Decision," *American Heritage*, February/March 2007.

[5] Finkelman, Paul. "Scott v. Sandford: The Court's Most Dreadful Case and How it Changed History," (http://www.cklawreview.com/wp-content/uploads/vol82no1/Finkelman.pdf) 82 Chi.-Kent L. Rev. 3 2007. Retrieved August 20, 2012.

[6] *Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States*, The United States Government Printing Office, 2002

[7] "Legislation Declared Unconstitutional" (http://www.cqpress.com/context/constitution/docs/legislation.html). CQ Press. .

[8] Slaughterhouse Cases 83 U.S. 36 (https://supreme.justia.com/us/83/36/case.html) (1872)

[9] 1 Mo. 472, 475 (Mo. 1824).

[10] 4 Mo. 350 (Mo. 1836). *Rachel* is remarkable as its fact pattern was on point for Scott's case. Rachel had been a female slave taken into the free Wisconsin Territory by her owner, who was an army officer. In *Rachel*, the Supreme Court of Missouri held she was free as a consequence of having been taken by her master into a free jurisdiction.

[11] Scott v. Emerson, 15 Mo. 576, 586 (Mo. 1852) (http://www.scribd.com/doc/101464818/Scott-v-Emerson-15-Missouri-Reports-576-1852) Retrieved August 20, 2012.

[12] Maltz, Earl M. (2007). *Dred Scott and the politics of slavery*. Lawrence: University Press of Kansas. p. 115. ISBN 0-7006-1502-4.

[13] Armitage, Susan H.; Faragher, John Mack; Buhle, Mari Jo; Czitrom, Daniel J. (2005). *Out of Many, TLC Combined, Revised Printing (4th Edition)*. Englewood Cliffs, N.J: Prentice Hall. p. 388. ISBN 0-13-195130-0.

[14] Baker, Jean H. (2004). Macmillan. ISBN 978-0-8050-6946-4. http://books.google.com/books?id=wQeVkzfTJcEC&pg=PA85.
[15] "James Buchanan: Inaugural Address. U.S. Inaugural Addresses. 1989" (http://www.bartleby.com/124/pres30.html). Bartleby.com. . Retrieved 2012-07-26.
[16] http://www.cklawreview.com/wp-content/uploads/vol82no1/Finkelman.pdf
[17] "60 US 393 Dred Scott v. John F a Sandford" (http://openjurist.org/60/us/393). OpenJurist. . Retrieved 2012-07-26.
[18] Fehrenbacher, D. E. (1978). *The Dred Scott case*. Pg. 2. New York: Oxford University Press.
[19] Kelly, Alfred H.; Winfred A. Harbison (1976). *The American Constitution: Its Origins and Development* (5th ed.). New York: W.W. Norton & Co.. pp. 253–54.
[20] Kermit L. Hall (1999). *The Oxford Guide to United States Supreme Court Decisions* (http://books.google.com/?id=nO093wNz1PoC&pg=PA278&lpg=PA278&dq="dred+scott"+"obiter+dictum"&q="dred scott" "obiter dictum"). Oxford University Press. p. 278. ISBN 978-0-19-513924-2. .
[21] Abraham Lincoln's Speech on the Dred Scott Decision, June 26, 1857 (http://teachingamericanhistory.org/library/index.asp?document=52).
[22] Charles Calomiris and Larry Schweikart, "The Panic of 1857: Origins, Transmission, Containment," *Journal of Economic History*, LI, December 1990, pp. 807–34.
[23] Benson, Lloyd (editor). "The Issue Forced Upon Us." (http://history.furman.edu/benson/docs/nyajds57309a.htm). *Secession Era Editorials Project*. Furman University. . Retrieved 2008-06-17.
[24] "Dred Scott vs. Sandford: A Brief History with Documents - Google Boeken" (http://books.google.com/books?id=cBcoT3Rtqq8C). Books.google.com. . Retrieved 2012-07-26.
[25] Missouri State Archives. "Missouri's Dred Scott Case, 1846–1857" (http://www.sos.mo.gov/archives/resources/africanamerican/scott/scott.asp) accessed 31 March 2010.
[26] Fehrenbacher p. 580.
[27] *Introduction to the court opinion on the Dredd Scott case* (http://usinfo.state.gov/infousa/government/overview/21.html). U.S. Department of State. . Retrieved 2007–11.22
[28] *Remarks of the Chief Justice* (http://www.supremecourt.gov/publicinfo/speeches/sp_03-21-03.html). Supreme Court of the United States. March 21, 2003. . Retrieved 2007-11-22
[29] Rehnquist, William A Random Thought on the Segregation Cases (http://www.gpoaccess.gov/congress/senate/judiciary/sh99-1067/324-325.pdf), Robert H. Jackson.
[30] Planned Parenthood of Southeastern PA. v. Casey, 505 U.S. 833 (1992) (http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=505&invol=833). *FindLaw*.
[31] Carey, Patrick W. (April 2002). "Political Atheism: Dred Scott, Roger Brooke Taney, and Orestes A. Brownson" (http://muse.jhu.edu/journals/catholic_historical_review/v088/88.2carey.html). *The Catholic Historical Review* (The Catholic University of America Press) **88** (2): 207–229. doi:10.1353/cat.2002.0072. ISSN 1534-0708. (requires subscription)

Further reading

- *Mrs. Dred Scott: A Life on Slavery's Frontier, by Lea VanderVelde (Oxford University press, 2009) 480 pp. paperback 2011.*
- *The "Dred Scott" Case: Historical and Contemporary Perspectives on Race and Law* edited by David Thomas Konig, Paul Finkelman, and Christopher Alan Bracey (Ohio University Press; 2010) 272 pages; essays by scholars on the history of the case and its afterlife in American law and society.
- Swain, Gwenyth (2004). *Dred and Harriet Scott: A Family's Struggle for Freedom*. Saint Paul, MN: Borealis Books. ISBN 978-0-87351-482-8.
- Tushnet, Mark (2008). *I dissent: Great Opposing Opinions in Landmark Supreme Court Cases*. Boston: Beacon Press. pp. 31–44. ISBN 978-0-8070-0036-6.

External links

- Text of *Dred Scott v. Sandford*, 60 U.S. 393 (1856) is available from: Justia (http://supreme.justia.com/us/60/393/case.html) · Findlaw (http://laws.findlaw.com/us/60/393.html) · · LII (http://www.law.cornell.edu/supct-cgi/get-us-cite?60+393)
- Summary of the case from OYEZ (http://www.oyez.org/cases/1851-1900/1856/1856_0)
- "Dred Scott decision" (http://search.eb.com/eb/article-9031170), *Encyclopædia Britannica* 2006. Encyclopædia Britannica Online. 17 December 2006. www.yowebsite.com
- Gregory J. Wallance, "Dred Scott Decision: The Lawsuit That Started The Civil War" (http://www.historynet.com/magazines/civil_war_times/3037746.html), History.net, originally in *Civil War Times Magazine*, March/April 2006
- Jefferson National Expansion Memorial, National Park Service (http://www.nps.gov/jeff)
- Infography about the Dred Scott Case (http://www.infography.com/content/523931007610.html)
- The Dred Scott Case Collection (http://digital.wustl.edu/d/dre/index.html), Washington University in St. Louis
- Report of the Brown University Steering Committee on Slavery and Justice (http://www.brown.edu/Research/Slavery_Justice/documents/SlaveryAndJustice.pdf)
- Dred Scott case articles from William Lloyd Garrison's abolitionist newspaper The Liberator (http://www.theliberatorfiles.com/category/dred-scott-decision/)

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