Dana Bowers, Logan Cornell, Darcie Dreher,
Jake Harder, Jennifer Minnis

Dred Scott v. Sanford, 60 U.S. 393 1857

The Dred Scott Courtroom once looked much like this illustration of the room on the second floor, just above it.

Introduction

The Case

John and Irene Emerson lived in Missouri. John worked for the military, so he traveled, and when he did he brought his slave Dred Scott with him. After the Emersons died, Dred Scott sued their estate for his freedom. Scott's lawyers argued that Scott became free when he lived with Emerson in Illinois– a free state– and in Wisconsin, which was made a free territory by the Missouri Compromise.

The Court's Decision

The court protected and even expanded slavery. It said that, as a slave, Dred Scott was property. He was not a citizen even if he were freed. He had no rights; he could not even file a lawsuit. The court also said the Congress had no power to limit slavery, because any such limits would violate the Constitutional property rights of slaveholders.

Historical Impact

The decision meant that the Missouri Compromise was void, because Congress could not limit slavery in the territories. Further, it seemed to imply that no state could be a free state because states could not prohibit their citizens from importing, owning, or buying and selling slaves. Dred Scott thrilled slaveowners, while it outraged free-soilers and abolitionists. By deepening the sectional divide between North and South, the decision helped bring about the Civil War. Following the Civil War, the 14th Amendment to the U.S. Constitution was passed, undoing the Dred Scott decision.

Student Objective

Use this internet resource to enhance your understanding of the social and political climate of the United States leading up to the Civil War. How did this landmark Supreme Court case affect future civil and political actions in the United States? Choose at least two primary documents and analyze each of them using the primary source analysis page found below. **Please note, primary documents trial record, modern voices, etc.*

Document Analysis Page

Student Name _____

Primary Source Document Analysis

Type of Document _____
Is there anything special about this document? If so, describe.

_____

_____

Date of Document _____
Author (if known) _____
For what audience was the document written? _____

_____
What appears to be the purpose of this document? _____

_____
List three things the author mentioned that you think are important:

1. _____

_____

2. _____

_____

3. _____

_____

Write three questions that you need answered in order to understand the document more fully.

1. _____

_____

2. _____

_____

3. _____

_____

What do you believe is the most important sentence or phrase from the document? Why?

_____

_____

_____

Shepardized Sources

What is *shepardizing*?

It is checking to ascertain whether the case has been over ruled by an appeals court, or cited as precedence by another court, or some other discussion by another court which affects its value as precedence. For example if the US supreme court were to cite a lower court case as good law, the lower court case would be elevated in stature. Conversely, if the lower case were to be distinguished away, or held not correct, it loses value. Thus shepardizing ensures your cases cites are still good law in your briefs.

Scott v. Sanford– Shepardizing

PRIOR HISTORY: Crocker v. State, 248 S.W.3d 299, 2007 Tex. App. LEXIS 7002 (Tex. App. Houston 1st Dist., 2007)

CORE TERMS: warden, mail, inmate, prison, cell, civil rights, frivolous, lawsuit, fails to state, personally, grievance, religious services, tampering, publisher, prisoner's, prison official, prison system, work restrictions, discontinued, kitchen, attend, food, disciplinary, reassigned, work assignment, present case, medical needs, constitutional violations, cause of action, indifference

COUNSEL: [*1] Frabon Crocker, Plaintiff, Pro se, Tennessee Colony, Tx.

JUDGES: JUDTTH K. GUTHRIE, UNITED STATES MAGISTRATE JUDGE.

OPINION BY: JUDTTH K. GUTHRIE

OPINION

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff Frabon Crocker, a prisoner confined at the Eastham Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis,* filed the above-styled and numbered civil rights lawsuit. The complaint was transferred to the undersigned with the consent of the parties pursuant to 28 U.S.C. § 636(c).

Facts of the Case

The original complaint was filed on December 12, 2008. The Plaintiff complained about his conviction, being forced to work in the fields, cell restrictions keeping him from religious services, and mail tampering. On February 19, 2009, the Court conducted an evidentiary hearing, in accordance with *Spears v. McCotter,* 766 F.2d 179 (5th Cir. 1985), to consider the Plaintiff's claims. The Plaintiff was given the opportunity to fully explain the factual basis of his claims. Regional Grievance Coordinator Chip Satterwhite, Warden Eddie Baker and Physicians Assistant Cheryl Egan were present during the hearing in the event the Court wanted testimony about information contained in the Plaintiff's prison records or **[*2]** testimony about prison policies.

The Plaintiff testified that he had a job working in the kitchen, but then he was reassigned to work in the fields. He acknowledged that his work classification, also known as "HSM-18," did not include any work restrictions, but he argued that he should not have been reassigned to work in the fields since he was over 52 years old. He added that he was reassigned even though he did not do anything wrong in the kitchen nor receive any disciplinary cases. He asserted that there was no reason to give him the new job assignment. He expressed the belief that he received the new job assignment in order to give him disciplinary cases. He, in fact, received disciplinary cases and his punishment included cell restrictions. He was unable to attend religious services while he was on cell restrictions. He acknowledged, however, that the policy of prohibiting inmates with cell restrictions from going to religious services was discontinued as of October 1, 2008.

:ters. He wrote to the court of

 a response for one and one-

appeals and his attorney about his conviction, but he did not receive a response for one and one-half years. **[*3]** He then had somebody else write to his attorney for him, and he received a response. The Plaintiff noted that he is in prison for a Harris County conviction for the offense of aggravated robbery. He noted that his conviction was reversed in 2007, but he is still waiting to be released or retried. The Court notes that published appeal records confirm that his conviction was reversed on August 30, 2007, and that the Texas Court of Criminal Appeals refused the State's petition for discretionary review on January 23, 2008. *Crocker v. State*, 248 S.W.3d 299 (Tex. App. - Houston [1 Dist.] 2007, pet. ref'd).

The Plaintiff complained that he did not receive a response when he wrote to Under One Roof Bookstore in Killeen. It is noted that the store's website is www.underoneroofbookstore.com. He ordered a copy of the Koran and never received it. He also wrote to an attorney regarding social security disability benefits and never received a response. He believes that people in the mail room did not mail his letters, although he was unable to identify anyone responsible. In 2006, he bought a book entitled The Missing Dimension in Sex, by Herbert W. Armstrong, but the book was returned on November **[*4]** 23, 2006, because of explicit pictures. However, he subsequently received the book in December, 2008. He noted that he was confined at the Eastham Unit at all applicable times, and he does not know why the book was rejected in 2006 but permitted in 2008. He acknowledged that the Court has received his letters and has processed this lawsuit.

Regional Grievance Coordinator Chip Satterwhite testified under oath that books received from an unapproved source will be returned. The Director's Review Committee has a list of approved publishers. He added that a copy of the Koran from an unapproved publisher would be returned.

The Plaintiff also testified that he believes that his food was poisoned. He has experienced pain in his chest. He noted that he did not complain or submit a sick call request about the problem. Nonetheless, he experienced problems since leaving the Hughes Unit in 1990.

The Plaintiff testified that he sued Warden Sweetin because he is the head warden and is in charge of the Eastham Unit. He likewise sued Assistant Warden Reescano because he is a warden and in charge of the unit. Warden Reescano also signed several responses denying his Step 1 grievances. The Plaintiff testified **[*5]** that he never personally talked to either person.

Warden Eddie Baker testified under oath that job assignments are made wherever there is a need for workers. An inmate may be assigned to any job as long as there are no medical restrictions prohibiting the assignment. He confirmed that the policy of not permitting inmates with cell restrictions to attend religious services was discontinued as of October 1, 2008. With respect to mail, Warden Baker testified that the Plaintiff should have received a notice from the mail room any time a letter was not mailed out or incoming mail was rejected.

Physicians Assistant Egan testified under oath that the University of Texas Medical Branch, which provides medial care to prison inmates, recommends that some work limitations be added to HSM-18s when an inmate reaches 50 years old, but the decision concerning the medical restrictions to give to a particular inmate is up to the unit medical provider. It is again noted that the Plaintiff's HSM-18 does not include any medical restrictions.

About Us

Tell customers about your company or organization. Include a brief description of your employees, the products or services you provide, and your company's goal or mission statement.

Change the picture to one of your own, such as a picture of your CEO, a major product, or your company headquarters.

Lorem ipsum dolor sit amet, consectetuer adipiscing elit, sed diem nonummy nibh euismod tincidunt ut lacreet dolore magna aliguam erat volutpat. Ut wisis enim ad minim veniam, quis nostrud exerci tution ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo consequat.

Lorem ipsum dolor sit amet, consectetuer adipiscing elit, sed diem nonummy nibh euismod tincidunt ut lacreet dolore magna aliguam erat volutpat. Ut wisis enim ad minim veniam, quis nostrud exerci tution ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo consequat.

To contact us:

Phone: 555-555-5555
Fax: 555-555-5555
E-mail: someone@example.com

http://campus.lakeforest.edu/~ragland/gibsomc/

Dred Scott– Plaintiff

Slave, social activist. Born in 1795 in Southampton County, Virginia. Born into slavery, Dred Scott made history by launching a legal battle to gain his freedom. After the death of his original owner, he was sold to another man and spent time as a slave in two free states. Scott tried to buy freedom for himself and his family from their heirs of his second owner after his owner's death but failed.

In the late 1840s, Scott filed suit to gain his freedom with help from two St. Louis attorneys. The basis of his case was that he had been taken from Missouri, a slave state, to Illinois, a free state. The case dragged on for years, finally making its way to the U.S. Supreme Court in 1857. The Supreme Court ruled against him, but the decision served to increase anti-slavery agitation in the North.

Shortly after the ruling, Scott was emancipated. He stayed in St. Louis and found work as a porter in a local hotel. His freedom proved to be short lived; Scott died of tuberculosis on September 17, 1858.

John Sanford– Defendant

Sanford, John F. A., frontiersman (1806-May 5, 1857). Born in Virginia, he reached St. Louis in 1825 and became clerk for William Clark, as such witnessing a treaty with the Kansas Indians at St. Louis June 3. In 1826 he was appointed sub agent for the upper Missouri, remaining two years among the Mandans and contacting other upper country tribes. He returned to St. Louis briefly in 1828 and again in 1830. He went back upriver and in 1831 brought down a deputation of four Indians from as many tribes, visited Washington, and returned up the river in 1832, accompanied by Catlin.

Sanford returned to St. Louis and married the daughter of Pierre Chouteau, Jr., Emilie, returning up the river, this time accompanied by Prince Maximilian, and went back to St. Louis. His wife died in 1836, having mothered a son. Sanford resigned in late 1834, went to work for his father-in-law, remaining in Chouteau's employ the rest of his life. He became a partner in the firm in 1838, accumulated a fortune, lived at New York City late in life, and married once more. In 1853, owning briefly the slave, Dred Scott, he was defendant in the famous lawsuit. In December 1856, Sanford had a mental breakdown, became insane, and died in a New York asylum.

Roger B. Taney– Chief Justice (1836-1864)

Personal Information
Born: Monday, March 17, 1777
Died: Wednesday, October 12, 1864
Childhood Location: Maryland
Childhood Surroundings: Maryland
Position: Chief Justice
Seat: 1
Nominated By: Jackson
Commissioned on: Monday, March 14, 1836
Sworn In: Sunday, March 27, 1836
Left Office: Tuesday, October 11, 1864
Reason For Leaving: Death
Length of Service: 28 years, 6 months, 15 days
Home: Maryland

Biography:
Roger Brooke Taney was born and raised in Calvert County, Maryland. He was educated privately and attended Dickinson College where he graduated first in his class. He apprenticed with an Annapolis lawyer for three years and was admitted to the bar.

Taney was a representative in the Maryland House of Delegates for one term; he served as a Federalist. He backed the War of 1812 and split with his party over the issue. Taney returned to private law practice in 1821, after serving a term in the Maryland Senate. He remained active in politics, but joined with the Jacksonian Democrats when the Federalist Party expired. He led Jackon's presidential campaign in Maryland. Jackson later selected Taney as his attorney general.

In 1835, Jackson nominated Taney to replace Gabriel Duvall as associate justice. The Senate postponed the confirmation vote indefinitely. Less than a year later, Jackson sent up Taney's name to replace John Marshall as chief justice.

Taney sat on the Court until his death in 1864. Taney's wife -- Anne Key Taney -- died on September 29, 1855 from complications of a stroke. His youngest daughter, Alice, died the next day from yellow fever.

Taney made significant contributions to American constitutional law, but the case most closely associated with him inflicted enormous injury to the Court as an institution. That case was Dred Scott v. Sandford, decided on March 6, 1857.

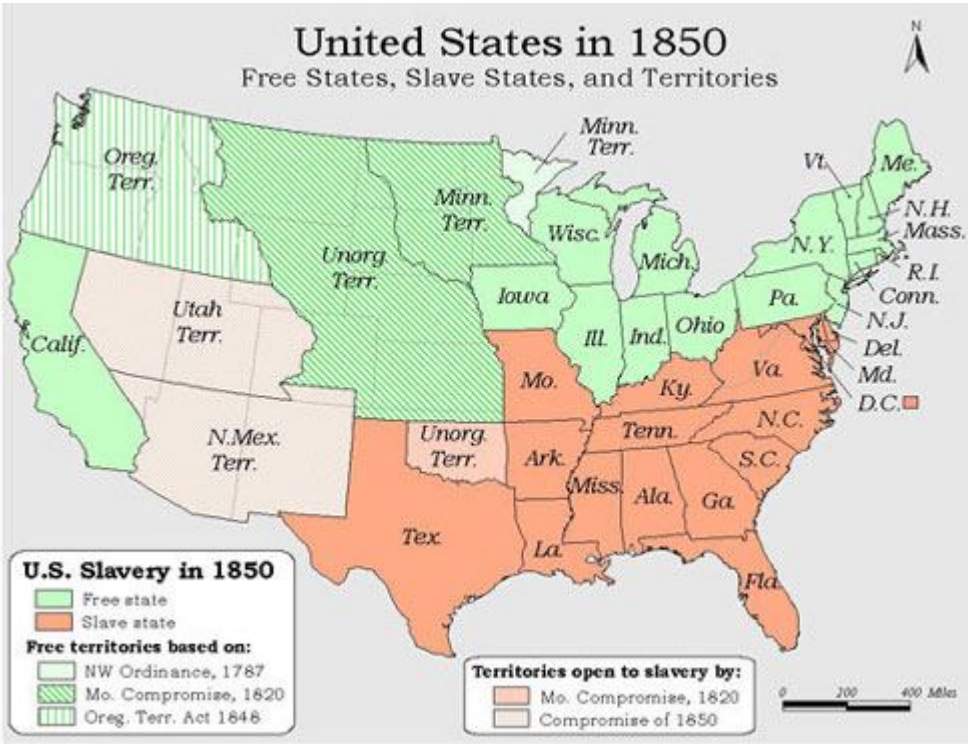
John McLean– Justice

Personal Information
Born: Friday, March 11, 1785
Died: Thursday, April 4, 1861
Childhood Location: New Jersey
Childhood Surroundings: New Jersey
Position: Associate Justice
Seat: 7
Nominated By: Jackson
Commissioned on: Friday, March 6, 1829
Sworn In: Sunday, January 10, 1830
Left Office: Wednesday, April 3, 1861
Reason For Leaving: Death
Length of Service: 31 years, 2 months, 24 days
Home: Ohio

Biography:
Though born in New Jersey, John McLean was raised a farmer's son near Lebanon, Ohio. He attended the local school and later was tutored privately. He apprenticed with a Cincinnati lawyer. After his admission to the bar, McLean briefly entered the newspaper publishing business. Thereafter, he was twice elected to the U.S. House of Representatives.

McLean was a loyal Democrat. In return for his support, President James Monroe appointed McLean postermaster general. At the time, this was the largest executive agency. He continued his service under President John Quincy Adams. President Andrew Jackson appointed McLean to the Supreme Court, perhaps hoping to quell his political ambition. But the Court is not a monastery, and McLean repeatedly sought a presidential nod from his Supreme Court perch. For his long years of serve on the Court, McLean's record is extraordinary thin on constitutional issues.

Compromise of 1850



The Compromise of 1850, far from easing the national controversy over slavery, creates new threats to black freedom and escalates sectional tensions. When black rights are obliterated by the Dred Scott decision, the direct action strategies increasingly favored by black abolitionists gain support in the North as the country moves closer toward civil war.

Fugitive Slave Act

In payment for Southern support for California's admission to the Union as a free state and ending the slave trade in the District of Columbia, Congress enacted the Fugitive Slave Act to assist the South with maintaining a tight rein on slaveholders' property.

The new law created a force of federal commissioners empowered to pursue fugitive slaves in any state and return them to their owners. No statute of limitations applied, so that even those slaves who had been free for many years could be (and were) returned.

The commissioners enjoyed broad powers, including the right to compel citizens to assist in the pursuit and apprehension of runaways; fines and imprisonment awaited those who refused to cooperate. A captured runaway could not testify on his own behalf and was not entitled to a court trial. The commissioners received a fee of 10 dollars for every slave returned; the fee was reduced to

Operations of the Fugitive-Slave Act

five dollars if the accused slave were released.

The passage and enforcement of this law enraged many in the North. Some states reacted by passing legislation designed to hamper the federal commissioners' activities, but such laws were declared unconstitutional by the U.S. Supreme Court. Riots occurred in some Northern communities and soldiers were deployed to restore order.

The 1852 publication of *Uncle Tom's Cabin* capitalized upon the Northern sensibilities, which had been rubbed raw by the Fugitive Slave Act.

Case Diagram

State	Federal
Missouri Supreme Court Reversed the decision by the circuit court saying Dred Scott and his family were not free. *Dred Scott* v. *Emerson* (1852)	**U.S. Court for the District of Missouri** Sandford (Mrs. Emerson's brother who was now responsible for the estate) had moved to New York, leaving Scott in Missouri. Because of a peculiar turn of events in the Missouri court system and law, Scott was in the unusual position of deciding whether to appeal directly from the Missouri Superme Court to the U.S. Supremem Court or to start his case over again in federal district court. Scott chose to bring a new suit in federal court on the basis that he and the defendant were now citizens of different states. The jury decided that Dred Scott and his family were not free. *Dred Scott* v. *Sandford* (1854)
Missouri Circuit Court of St. Louis County The jury in a second trial decided that the Scotts deserve to be free, based on their years of residence in the non-slave territories of Wisconsin and Illinois. *Dred Scott* v. *Emerson* (1850)	
Missouri Circuit Court of St. Louis County On behalf of himself, his wife, and his two daughters, Dred Scott sued his owner in state	***Note: This case did not follow the standard appellate procedure. Today, an individual's only option after receiving an unfavorable state supreme court ruling is usually to appeal to the United States Supreme Court and not a lower federal court.***

circuit court ruled in favor of Mrs. Emerson (the owner), dismissing the Scotts' case but allowing the Scotts to re-file their suit.

Dred Scott v. *Emerson* (1847)

Bibliography

Administration, National Archives and Records. Civil War and Reconstruction (1850-1877). <http://www.archives.gov/exhibits/american_originals/scott.html>.

Africans in America Judgment Day. <http://www.pbs.org/wgbh/aia/tguide/4index.html>.

Archives, Missouri State. Missouri Dred Scott Case. <http://www.sos.mo.gov/archives/resources/africanamerican/scott/images/8744-03.jpg>.

Britannica. Dred Scott Decision Newspaper Notice. <http://www.britannica.com/EBchecked/topic-art/171273/95080/Newspaper-notice-for-a-pamphlet-on-the-US-Supreme-Courts>.

Clem, Mike. United Sates in 1850. <http://www.amicuss.net/dohs/ah1_2500/mod1/mod1_top9.html>.

Court, Landmark Cases Supreme. Dred Scott v. Sandford Court Case Diagram. <http://www.landmarkcases.org/dredscott/courtsystem.html>.

FRABON CROCKER, # 1304330 VS. D. SWEETIN, ET AL. CIVIL ACTION NO. 9:08cv233. United States District Court for the Eastern District of Texas, Lufkin Division. 2009 U.S. District, LEXIS 26635. <http://www.lexisnexis.com/us>

Gibson, Mei-Yun. The Verdict of the Dred Scott Case. <http://campus.lakeforest.edu/~ragland/gibsomc/>.

Lehrman, Gilder. The Dred Scott Decision (Roger Taney's Ruling). <http://www.digitalhistory.uh.edu/documents/documents_p2.cfm?doc=23>.

Lehrman, Gilder. The Dred Scott Decision (Scott's Freedom Suit). <http://www.gilderlehrman.org/collection/online/scott/slide02.html>.

McDougal Littell. American History Beginnings through Reconstruction. Evanston, IL: McDougal Littell, 2008.

nps.gov. The Dred Scott Case. <http://www.nps.gov/jeff/planyourvisit/dredscott.htm>.

Oyez, U.S. Supreme Court Media. Dred Scott v. Sandford. <http://www.oyez.org/cases/1851-1900/1856/1856_0>.

University, The Lilly Library Indiana. America in Caricature. <http://www.indiana.edu/~liblilly/cartoon/madrille.html>.

Home
Maps and Diagrams
Chronology
Court Decision
Participant Biographies
Trial Record
Modern Voices
Primary Sources
Shepardizing
8th Grade Webquest
Bibliography

Chronology of Dred Scott Case

1800 Dred Scott was born a slave in southeast Virginia about this year.
1830 His master, Peter Blow, brought Dred to St. Louis. Within the next few years Peter Blow died and left Dred Scott to his daughter.
1833 Dred Scott was sold to Dr. Emerson, a surgeon in the United States Army stationed at Jefferson Barracks.
1834 When Dr. Emerson moved with his unit to Fort Armstrong at Rock Island, Illinois, Scott was taken along. Under the Northwest Ordinance of 1787 and the State constitution of 1818, slavery was prohibited in Illinois. However, Army and Navy officers did not consider themselves to be citizens of a State merely because they happened to be stationed there.
1836 The troops with whom Dr. Emerson served were moved to Fort Snelling on the west side of the Mississippi in what is now Minnesota. Dr. Emerson took his slave along, although Fort Snelling was in territory from which slavery was barred by the Missouri Compromise of 1820. Not long after arriving at the Fort, Dr. Emerson bought a slave women named Harriet from Major Taliaferro, an officer from Virginia. Dred and Harriet were married with their master's consent.
1837 Dr. Emerson was transferred, probably to Fort Gibson. He left his slaves hired out to another officer at Fort Snelling.
1838 Dred and Harriet were sent down to Dr. Emerson at Jefferson Barracks. On board the steamboat en route their first daughter, Eliza, was born.
1843 Dr. Emerson died. He had been sent to Florida during the Seminole war, leaving his slaves hired out at Jefferson Barracks. He returned from the war, but died shortly after. The Scotts were left to his widow, Irene, for the benefit of their minor daughter.
1846 On April 6, Dred and Harriet Scott file separate petitions for their freedom in the unfinished St. Louis Courthouse (now called the "Old Courthouse" and maintained by the National Park Service).
1847 In a trial held in the Old Courthouse, the Scotts lose their case on a technicality. They are given permission for a second trial by the Missouri Supreme Court.
1850 On January 12, in a room on the first floor, west wing of the Old Courthouse, the Circuit Court of St. Louis County awards Dred Scott and his family their freedom. Mrs. Irene Emerson appeals to the Missouri Supreme Court.
1852 The Missouri Supreme Court, convening in St. Louis, overturns the Circuit Court decision. Missouri breaks with past court decisions and no longer enforces the laws of free states and territories, declaring that "times now are not as they once were." The court defends slavery itself, saying that it places "that unhappy race within the pale of civilized nations."
1854 The Scotts file a new suit in Federal Court. John F.A. Sanford of New York, Irene Emerson's brother and agent, is named as defendant. The defense maintains that Dred Scott is not a citizen, and thus has no right to sue in court. The court upholds the right of Scott to sue, but the jury finds that he and his family are still slaves. The Scotts' lawyer, Roswell B. Field (father of the poet Eugene Field) appeals to the Supreme Court of the United States.
1856 In an atmosphere of increasing distrust between North and 1857 South, the Dred Scott case is considered by the U.S. Supreme Court. Montgomery Blair and George T. Curtis argue on behalf of the Scotts, Reverdy Jonson and Henry S. Geyer for Sanford. On March 6, 1857, Chief Justice Roger B. Taney reads the official opinion of the court. Taney feels that Dred Scott's suit for freedom should be dismissed for the following reasons:

1. At the time of the adoption of the Constitution, African-Americans were not considered to be citizens, thus Dred Scott had no right to sue in court.

2. Residence in Wisconsin Territory had no effect on Dred Scott's status because the Missouri Compromise was invalid. Congress had no power to pass laws that limited slavery, because the right of property in a slave was guaranteed by the Constitution

- Home
- Maps and Diagrams
- Chronology
- Court Decision
- Participant Biographies
- Trial Record
- Modern Voices
- Primary Sources
- Shepardizing
- 8th Grade Webquest
- Bibliography

Dred Scott v. Sandford Court Arguments

SUPREME COURT OF THE UNITED STATES

60 U.S. 393
Scott v. Sandford

Argued: --- Decided:

I

1. Upon a writ of error to a Circuit Court of the United States, the transcript of the record of all the proceedings in the case is brought before the court, and is open to inspection and revision.
2. When a plea to the jurisdiction, in abatement, is overruled by the court upon demurrer, and the defendant pleads in bar, and upon these pleas the final judgment of the court is in his favor -- if the plaintiff brings a writ of error, the judgment of the court upon the plea in abatement is before this court, although it was in favor of the plaintiff -- and if the court erred in overruling it, the judgment must be reversed, and a mandate issued to the Circuit Court to dismiss the case for want of jurisdiction.
3. In the Circuit Courts of the United States, the record must show that the case is one in which, by the Constitution and laws of the United States, the court had jurisdiction -- and if this does not appear, and the judgment must be reversed by this court -- and the parties cannot be consent waive the objection to the jurisdiction of the Circuit Court.
4. A free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a "citizen" within the meaning of the Constitution of the United States.
5. When the Constitution was adopted, they were not regarded in any of the States as members of the community which constituted the State, and were not numbered among its "people or citizens." Consequently, the special rights and immunities guarantied to citizens do not apply to them. And not being "citizens" within the meaning of the Constitution, they are

Circuit Court has not jurisdiction in such a suit.

not entitled to sue in that character in a court of the United States, and the Circuit Court has not jurisdiction in such a suit.
6. The only two clauses in the Constitution which point to this race treat them as persons whom it was morally lawfully to deal in as articles of property and to hold as slaves.
7. Since the adoption of the Constitution of the United States, no State can by any subsequent law make a foreigner or any other description of persons citizens of [p394] the United States, nor entitle them to the rights and privileges secured to citizens by that instrument.
8. A State, by its laws passed since the adoption of the Constitution, may put a foreigner or any other description of persons upon a footing with its own citizens as to all the rights and privileges enjoyed by them within its dominion and by its laws. But that will not make him a citizen of the United States, nor entitle him to sue in its courts, nor to any of the privileges and immunities of a citizen in another State.
9. The change in public opinion and feeling in relation to the African race which has taken place since the adoption of the Constitution cannot change its construction and meaning, and it must be construed and administered now according to its true meaning and intention when it was formed and adopted.
10. The plaintiff having admitted, by his demurrer to the plea in abatement, that his ancestors were imported from Africa and sold as slaves, he is not a citizen of the State of Missouri according to the Constitution of the United States, and was not entitled to sue in that character in the Circuit Court.
11. This being the case, the judgment of the court below in favor of the plaintiff on the plea in abatement was erroneous.

II

1. But if the plea in abatement is not brought up by this writ of error, the objection to the citizenship of the plaintiff is still apparent on the record, as he himself, in making out his case, states that he is of African descent, was born a slave, and claims that he and his family became entitled to freedom by being taken by their owner to reside in a Territory where slavery is prohibited by act of Congress, and that, in addition to this claim, he himself became entitled to freedom by being taken to Rock Island, in the State of Illinois, and being free when he was brought back to Missouri, he was, by the laws of that State, a citizen.
2. If, therefore, the facts he states do not give him or his family a right to freedom, the plaintiff is still a slave, and not entitled to sue as a "citizen," and the judgment of the Circuit Court was erroneous on that ground also, without any reference to the plea in abatement.
3. The Circuit Court can give no judgment for plaintiff or defendant in a case where it has not jurisdiction, no matter whether there be a plea in abatement or not. And unless it appears upon the face of the record, when brought here by writ of error, that the Circuit Court had jurisdiction, the judgment must be reversed.
The case of *Capron v. Van Noorden,* 2 Cranch 126, examined, and the principles thereby decided reaffirmed.
4. When the record, as brought here by writ of error, does not show that the Circuit Court had jurisdiction, this court has jurisdiction to review and correct the error like any other error in the court below. It does not and cannot dismiss the case for want of jurisdiction here, for that would leave the erroneous judgment of the court below in full force, and the party injured without remedy. But it must reverse the judgment and, as in any other case of reversal, send a mandate to the Circuit Court to conform its judgment to the opinion of this court.
5. The difference of the jurisdiction in this court in the cases of writs of error to State courts and to Circuit Courts of the United States pointed out, and the mistakes made as to the jurisdiction of this court in the latter case by confounding it with its limited jurisdiction in the former.
6. If the court reverses a judgment upon the ground that it appears by a particular part of the record that the Circuit Court had not jurisdiction, it does not take away the jurisdiction of this court to examine into and correct, by a reversal of the judgment, any other errors, either as to the jurisdiction or any other matter, where it appears from other parts of the record that the Circuit Court had fallen into error. On the contrary, it is the daily and familiar practice of this court to reverse on several grounds where more than one error appears to have been committed. And the error of a Circuit Court in its jurisdiction [p395] stands on the same ground, and is to be treated in the same manner as any other error upon whish its judgment is founded.
7. The decision, therefore, that the judgment of the Circuit Court upon the plea in abatement is erroneous is no reason why the alleged error apparent in the exception should not also be examined, and the judgment reversed on that ground also, if it discloses a want of jurisdiction in the Circuit Court.
8. It is often the duty of this court, after having decided that a particular decision of the Circuit Court was erroneous, to examine into other alleged errors and to correct them if they are found to exist. And this has been uniformly done by this court when the questions are in any degree connected with the controversy and the silence of the court might create doubts

III

which would lead to further useless litigation.

III

1. The facts upon which the plaintiff relies did not give him his freedom and make him a citizen of Missouri.
2. The clause in the Constitution authorizing Congress to make all needful rules and regulations for the government of the territory and other property of the United States applies only to territory within the chartered limits of some one of the States when they were colonies of Great Britain, and which was surrendered by the British Government to the old Confederation of the States in the treaty of peace. It does not apply to territory acquired by the present Federal Government by treaty or conquest from a foreign nation.
3. The United States, under the present Constitution, cannot acquire territory to be held as a colony, to be governed at its will and pleasure. But it may acquire territory which, at the time, has not a population that fits it to become a State, and may govern it as a Territory until it has a population which, in the judgment of Congress, entitled it to be admitted as a State of the Union.
4. During the time it remains a Territory, Congress may legislate over it within the scope of its constitutional powers in relation to citizens of the United States, and may establish a Territorial Government, and the form of the local Government must be regulated by the discretion of Congress, but with powers not exceeding those which Congress itself, by the Constitution, is authorized to exercise over citizens of the United States in respect to the rights of persons or rights of property.

IV

1. The territory thus acquired is acquired by the people of the United States for their common and equal benefit through their agent and trustee, the Federal Government. Congress can exercise no power over the rights of persons or property of a citizen in the Territory which is prohibited by the Constitution. The Government and the citizen, whenever the Territory is open to settlement, both enter it with their respective rights defined and limited by the Constitution.
2. Congress have no right to prohibit the citizens of any particular State or States from taking up their home there while it permits citizens of other States to do so. Nor has it a right to give privileges to one class of citizens which it refuses to another. The territory is acquired for their equal and common benefit, and if open to any, it must be open to all upon equal and the same terms.
3. Every citizen has a right to take with him into the Territory any article of property which the Constitution of the United States recognises as property.
4. The Constitution of the United States recognises slaves as property, and pledges the Federal Government to protect it. And Congress cannot exercise any more authority over property of that description than it may constitutionally exercise over property of any other kind.
5. The act of Congress, therefore, prohibiting a citizen of the United States from [p396] taking with him his slaves when he removes to the Territory in question to reside is an exercise of authority over private property which is not warranted by the Constitution, and the removal of the plaintiff by his owner to that Territory gave him no title to freedom.

V

1. The plaintiff himself acquired no title to freedom by being taken by his owner to Rock Island, in Illinois, and brought back to Missouri. This court has heretofore decided that the *status* or condition of a person of African descent depended on the laws of the State in which he resided.
2. It has been settled by the decisions of the highest court in Missouri that, by the laws of that State, a slave does not become entitled to his freedom where the owner takes him to reside in a State where slavery is not permitted and afterwards brings him back to Missouri.
Conclusion. It follows that it is apparent upon the record that the court below erred in its judgment on the plea in abatement, and also erred in giving judgment for the defendant, when the exception shows that the plaintiff was not a citizen of the United States. And the Circuit Court had no jurisdiction, either in the cases stated in the plea in abatement or in the one stated in the exception, its judgment in favor of the defendant is erroneous, and must be reversed.
This case was brought up, by writ of error, from the Circuit Court of the United States for the district of Missouri.
It was an action of trespass *vi et armis* instituted in the Circuit Court by Scott against Sandford.
Prior to the institution of the present suit, an action was brought by Scott for his freedom in the Circuit Court of St. Louis county (State court), where there was a verdict and judgment in his favor. On a writ of error to the Supreme Court of the State, the judgment below was reversed and the case remanded to the Circuit Court, where it was continued to await the decision of the case now in question.

aulted the plaintiff; one, that he had assaulted Harriet Scott, his wife; and one, that he had assaulted

The declaration of Scott contained three counts: one, that Sandford had assaulted the plaintiff; one, that he had assaulted Harriet Scott, his wife; and one, that he had assaulted Eliza Scott and Lizzie Scott, his children.

Sandford appeared, and filed the following plea:

DRED SCOTT)
v.) Plea to the Jurisdiction of the Court.
JOHN F. A. SANDFORD)

APRIL TERM, 1854.

And the said John F. A. Sandford, in his own proper person, comes and says that this court ought not to have or take further cognizance of the action aforesaid, because he says that said cause of action and each and every of them (if any such have accrued to the said Dred Scott) accrued to the said Dred Scott out of the jurisdiction of this court, and exclusively within the jurisdiction of the courts of the State of Missouri, for that, to-wit: the said plaintiff, Dred Scott, is not a citizen of the State of Missouri, as alleged in his declaration, because **[p397]** he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves, and this the said Sandford is ready to verify. Wherefore, he prays judgment whether this court can or will take further cognizance of the action aforesaid.

JOHN F. A. SANDFORD

To this plea there was a demurrer in the usual form, which was argued in April, 1854, when the court gave judgment that the demurrer should be sustained.

In May, 1854, the defendant, in pursuance of an agreement between counsel, and with the leave of the court, pleaded in bar of the action:

1. Not guilty.

2. That the plaintiff was a negro slave, the lawful property of the defendant, and, as such, the defendant gently laid his hands upon him, and thereby had only restrained him, as the defendant had a right to do.

3. That with respect to the wife and daughters of the plaintiff, in the second and third counts of the declaration mentioned, the defendant had, as to them, only acted in the same manner and in virtue of the same legal right.

In the first of these pleas, the plaintiff joined issue, and to the second and third filed replications alleging that the defendant, of his own wrong and without the cause in his second and third pleas alleged, committed the trespasses, &c.

The counsel then filed the following agreed statement of facts, *viz:*

In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. I n that year, 1834, said Dr. Emerson took the plaintiff from the State of Missouri to the military post at Rock Island, in the State of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the Territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of thirty-six degrees thirty minutes north, and north of the State of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. [p398] In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at said Fort Snelling unto the said Dr. Emerson hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and said Harriet at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat *Gipsey,* north of the north line of the State of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the State of Missouri, at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet and their said daughter Eliza from said Fort Snelling to the State of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them and each of them as slaves.

At the times mentioned in the plaintiff's declaration, the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them, doing in this respect, however, no more than what he might lawfully do if they were of right

his slaves at such times.
Further proof may be given on the trial for either party.
It is agreed that Dred Scott brought suit for his freedom in the Circuit Court of St. Louis county; that there was a verdict and judgment in his favor; that, on a writ of error to the Supreme Court, the judgment below was reversed, and the same remanded to the Circuit Court, where it has been continued to await the decision of this case.
In May, 1854, the cause went before a jury, who found the following verdict, *viz:*

> As to the first issue joined in this case, we of the jury find the defendant not guilty; and as to the issue secondly above joined, we of the jury find that before and at the time when, &c., in the first count mentioned, the said Dred Scott was a negro slave, the lawful property of the defendant; and as to the issue thirdly above joined, we, the jury, find that before and at the time when, &c., in the second and third counts mentioned, the said Harriet, wife of **[p399]** said Dred Scott, and Eliza and Lizzie, the daughters of the said Dred Scott, were negro slaves, the lawful property of the defendant.

Whereupon, the court gave judgment for the defendant.
After an ineffectual motion for a new trial, the plaintiff filed the following bill of exceptions.
On the trial of this cause by the jury, the plaintiff, to maintain the issues on his part, read to the jury the following agreed statement of facts, (*see* agreement above.) No further testimony was given to the jury by either party. Thereupon the plaintiff moved the court to give to the jury the following instruction, *viz:*
"That, upon the facts agreed to by the parties, they ought to find for the plaintiff. The court refused to give such instruction to the jury, and the plaintiff, to such refusal, then and there duly excepted."
The court then gave the following instruction to the jury, on motion of the defendant:

> The jury are instructed, that upon the facts in this case, the law is with the defendant.

The plaintiff excepted to this instruction.
Upon these exceptions, the case came up to this court.

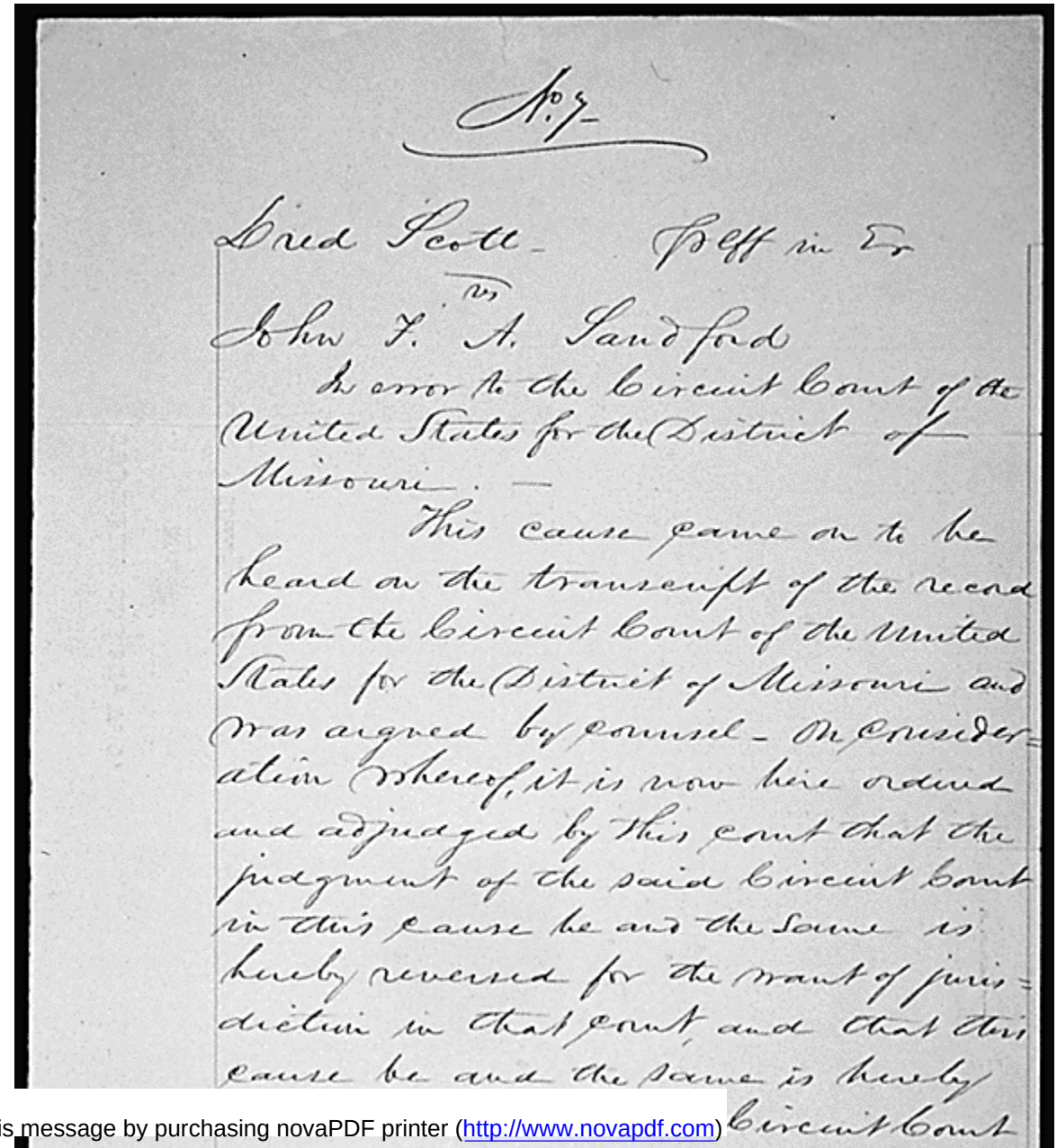
- Home
- Maps and Diagrams
- Chronology
- Court Decision
- Participant Biographies
- Trial Record
- Modern Voices
- Primary Sources
- Shepardizing
- 8th Grade Webquest
- Bibliography

Court Decision

Dred Scott Decision

On its way to the United States Supreme Court, the Dred Scott case grew in scope and significance as slavery became the single most explosive issue in American politics. By the time the case reached the high court, it had come to have enormous political implications for the entire nation. On March 6, 1857, Chief Justice Roger B. Taney read the majority opinion of the Court, which stated that black people were not citizens of the United States and, therefore, could not expect any protection from the federal government or the courts; the opinion also stated that Congress had no authority to ban slavery from a federal territory. The decision of Scott v. Sandford, considered by legal scholars to be the worst ever rendered by the Supreme Court, was overturned by the 13th and 14th amendments to the Constitution, which abolished slavery and declared all persons born in the United States to be citizens of the United States.

Judgment in the U.S. Supreme Court Case Dred Scott v. John F. A. Sandford, March 6, 1857



No 5

Dred Scott Plff in Er

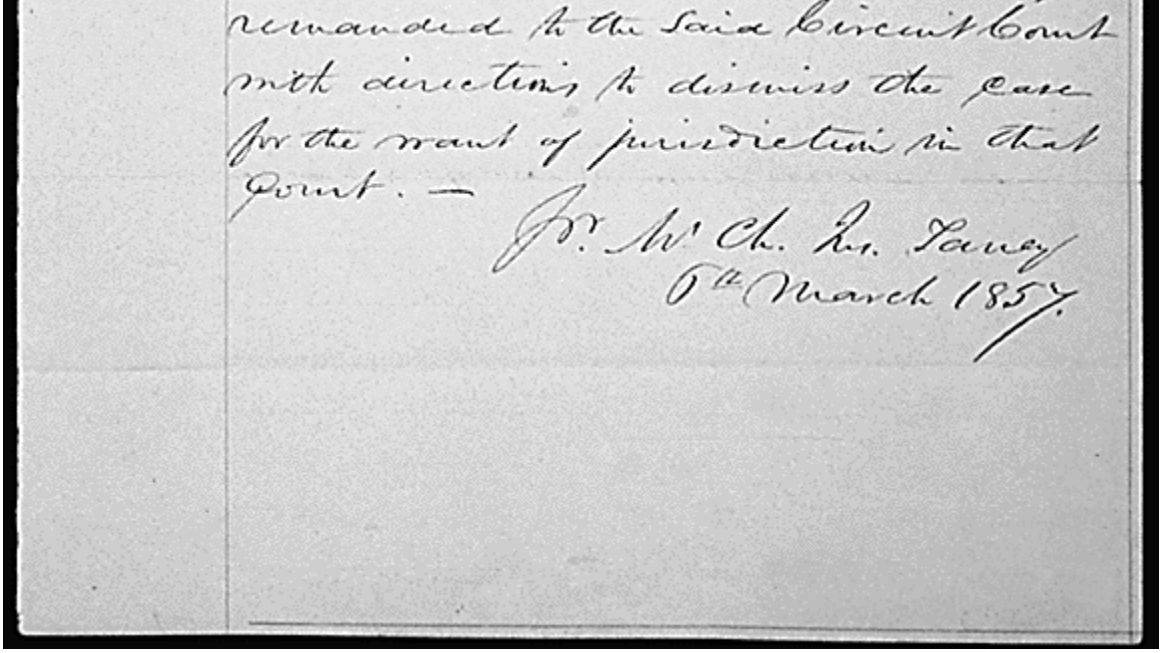
vs

John F. A. Sandford

In error to the Circuit Court of the United States for the District of Missouri.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Missouri and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the said Circuit Court in this cause be and the same is hereby reversed for the want of jurisdiction in that court and that this cause be and the same is hereby

Circuit Court


remanded to the said Circuit Court with directions to dismiss the case for the want of jurisdiction in that Court. —

Jr. Mr Ch. Jus. Taney
6th March 1857

Mr. Chief Justice Taney delivered the opinion of the Court....

In the opinion of the Court the legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people nor intended to be included in the general words used in that memorable instrument....
They had for more than a century before been regarded 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; and that the Negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race....
No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country should induce the Court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted....
And upon a full and careful consideration of the subject, the Court is of opinion that, upon the facts stated in the plea in abatement, Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States and not entitled as such to sue in its courts....
We proceed...to inquire whether the facts relied on by the plaintiff entitle him to his freedom....
The act of Congress, upon which the plaintiff relies, declares that slavery and involuntary servitude, except as a punishment for crime, shall be forever prohibited in all that part of the territory ceded by France, under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude and not included within the limits of Missouri. And the difficulty which meets us...is whether Congress was authorized to pass this law under any of the powers granted to it by the Constitution....
As there is no express regulation in the Constitution defining the power which the general government may exercise over the person or property of a citizen in a territory thus acquired, the Court must necessarily look to the provisions and principles of the Constitution, and its distribution of powers, for the rules and principles by which its decisions must be governed.
Taking this rule to guide us, it may be safely assumed that citizens of the United States who migrate to a territory...cannot be ruled as mere colonists, dependent upon the will of the general government, and to be governed by any laws it may think proper to impose....
For example, no one, we presume, will contend that Congress can make any law in a territory respecting the establishment of religion...or abridging the freedom of speech or of the press....

Mr. Justice McLEAN dissenting.

This case is before us on a writ of error from the Circuit Court for the district of Missouri.

An action of trespass was brought which charges the defendant with an assault and imprisonment of the plaintiff, and also of Harriet Scott, his wife, Eliza and Lizzie, his two children, on the ground that they were his slaves, which was without right on his part and against law.

The defendant filed a plea in abatement,

that said causes of action, and each and every of them, if any such accrued to the said Dred Scott, accrued out of the jurisdiction of this court, and exclusively within the jurisdiction of the courts of the State of Missouri, for that, to-wit, said plaintiff, Dred Scott, is not a citizen of the State of Missouri, as alleged in his declaration, because he is a negro of African descent, his ancestors were of pure African blood, and were brought into this country and sold as negro slaves, and this the said Sandford is ready to verify, wherefore he prays judgment whether the court can or will take further cognizance of the action aforesaid.

To this a demurrer was filed which, on argument, was sustained by the court, the plea in abatement being held insufficient; the defendant was ruled to plead over. Under this rule, he pleaded: 1. Not guilty, 2. That Dred Scott was a negro slave, the property of the defendant, and 3. That Harriet, the wife, and Eliza and Lizzie, the daughters of the plaintiff, were the lawful slaves of the defendant.

Issue was joined on the first plea, and replications of de injuria were filed to the other pleas.

The parties agreed to the following facts: In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, Dr. Emerson took the plaintiff from the State of Missouri to [p530] the post of Rock Island, in the State of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, Dr. Emerson removed the plaintiff from Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory Known as Upper Louisiana, acquired by the United States of France, and situate north of latitude thirty-six degrees thirty minutes north, and north of the State of Missouri. Dr. Emerson held the plaintiff in slavery, at Fort Snelling from the last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, Major Taliaferro took Harriet to Fort Snelling, a military post situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave, at Fort Snelling, unto Dr. Emerson, who held her in slavery at that place until the year 1838.

In the year 1836, the plaintiff and Harriet were married at Fort Snelling, with the consent of Dr. Emerson, who claimed to be their master and owner. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the State of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the State of Missouri at the military post called Jefferson Barracks.

In the year 1838, Dr. Emerson removed the plaintiff and said Harriet and their daughter Eliza from Fort Snelling to the State of Missouri, where they have ever since resided.

Before the commencement of the suit, Dr. Emerson sold and conveyed the plaintiff, Harriet, Eliza, and Lizzie, to the defendant as slaves, and he has ever since claimed to hold them as slaves.

At the times mentioned in the plaintiff's declaration, the defendant, claiming to be the owner, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them, doing in this respect, however, no more than he might lawfully do if they were of right his slaves at such times.

In the first place, the plea to the jurisdiction is not before us on this writ of error. A demurrer to the plea was sustained, which ruled the plea bad, and the defendant, on leave, pleaded over.

The decision on the demurrer was in favor of the plaintiff, and, as the plaintiff prosecutes this writ of error, he does not complain of the decision on the demurrer. The defendant [p531] might have complained of this decision, as against him, and have prosecuted a writ of error to reverse it. But as the case, under the instruction of the court to the jury, was decided in his favor, of course he had no ground of complaint.

But it is said, if the court, on looking at the record, shall clearly perceive that the Circuit Court had no jurisdiction, it is a ground for the dismissal of the case. This may be characterized as rather a sharp practice, and one which seldom, if ever, occurs. No case was cited in the argument as authority, and not a single case precisely in point is recollected in our reports. The pleadings do not show a want of jurisdiction. This want of jurisdiction can only be ascertained by a judgment on the demurrer to the special plea. No such case, it is believed, can be cited. But if this rule of practice is to be applied in this case, and the plaintiff in error is required to answer and maintain as well the points ruled in his favor, as to show the error of those ruled against him, he has more than an ordinary duty to perform. Under such circumstances, the want of jurisdiction in the Circuit Court must be so clear as not to admit of doubt. Now the plea which raises the question of jurisdiction, in my judgment, is radically defective. The gravamen of the plea is this:

That the plaintiff is a negro of African descent, his ancestors being of pure African blood, and were brought into this country and sold as negro slaves.

There is no averment in this plea which shows or conduces to show an inability in the plaintiff to sue in the Circuit Court. It does not allege that the plaintiff had his domicil in any other State, nor that he is not a free man in Missouri. He is averred to have had a negro ancestry, but this does not show that he is not a citizen of Missouri within the meaning of the act of Congress authorizing him to sue in the Circuit Court. It has never been held necessary, to constitute a citizen [illegible]y sue in the Federal courts, and so may any individual who has a permanent domicil in the State under whose laws his rights are protected, and to

within the act, that he should have the qualifications of an elector. Females and minors may sue in the Federal courts, and so may any individual who has a permanent domicil in the State under whose laws his rights are protected, and to which he owes allegiance.

Being born under our Constitution and laws, no naturalization is required, as one of foreign birth, to make him a citizen. The most general and appropriate definition of the term citizen is "a freeman." Being a freeman, and having his domicil in a State different from that of the defendant, he is a citizen within the act of Congress, and the courts of the Union are open to him.

It has often been held that the jurisdiction, as regards parties, can only be exercised between citizens of different States, [p532] and that a mere residence is not sufficient, but this has been said to distinguish a temporary from a permanent residence.

To constitute a good plea to the jurisdiction, it must negative those qualities and rights which enable an individual to sue in the Federal courts. This has not been done, and on this ground the plea was defective, and the demurrer was properly sustained. No implication can aid a plea in abatement or in bar; it must be complete in itself; the facts stated, if true, must abate or bar the right of the plaintiff to sue. This is not the character of the above plea. The facts stated, if admitted, are not inconsistent with other facts which may be presumed and which bring the plaintiff within the act of Congress.

The pleader has not the boldness to allege that the plaintiff is a slave, as that would assume against him the matter in controversy, and embrace the entire merits of the case in a plea to the jurisdiction. But beyond the facts set out in the plea, the court, to sustain it, must assume the plaintiff to be a slave, which is decisive on the merits. This is a short and an effectual mode of deciding the cause, but I am yet to learn that it is sanctioned by any known rule of pleading.

The defendant's counsel complain that, if the court take jurisdiction on the ground that the plaintiff is free, the assumption is against the right of the master. This argument is easily answered. In the first place, the plea does not show him to be a slave; it does not follow that a man is not free whose ancestors were slaves. The reports of the Supreme Court of Missouri show that this assumption has many exceptions, and there is no averment in the plea that the plaintiff is not within them.

By all the rules of pleading, this is a fatal defect in the plea. If there be doubt, what rule of construction has been established in the slave States? In Jacob v. Sharp, Meigs's Rep., Tennessee 114, the court held, when there was doubt as to the construction of a will which emancipated a slave, "it must be construed to be subordinate to the higher and more important right of freedom."

No injustice can result to the master from an exercise of jurisdiction in this cause. Such a decision does not in any degree affect the merits of the case; it only enables the plaintiff to assert his claims to freedom before this tribunal. If the jurisdiction be ruled against him on the ground that he is a slave, it is decisive of his fate.

It has been argued that, if a colored person be made a citizen of a State, he cannot sue in the Federal court. The Constitution declares that Federal jurisdiction "may be exercised between citizens of different States," and the same is provided [p533] in the act of 1789. The above argument is properly met by saying that the Constitution was intended to be a practical instrument, and where its language is too plain to be misunderstood, the argument ends.

Home
Maps and Diagrams
Chronology
Court Decision
Participant Biographies
Trial Record
Modern Voices
Primary Sources
Shepardizing
8th Grade Webquest
Bibliography

David Blight on the Dred Scott decision

Q: Please discuss the significance of the Dred Scott decision.

David W. Blight
Professor of History and Black Studies
Amherst College

A: The significance of the Dred Scott decision is that it comes in the wake of Bleeding Kansas, it comes three years after the Kansas-Nebraska Act. The country has now struggled for three years to understand the implications of popular sovereignty in the West and how the West would be settled, free or slave. And now this case of old Dred Scott finally gets to the Supreme Court, and the Supreme Court says not only did Dred Scott not have the right to even sue in a federal court because he's black and [not] a citizen, but it goes one step further. It goes for a much broader decision, and in Chief Justice Taney's words, blacks had no rights which whites had to recognize.

In the wake of the Dred Scott decision, spring of 1857, to be black in America was to live in the land of the Dred Scott decision, which, in effect, said, "You have no future in America." So, for the next three to three and a half years, down to the outbreak of the Civil War -- and we must remember, nobody knew that war was coming when it was coming -- to be black in America in the late 1850s was to live in a land that said you didn't have a future.

In the North, legislatures and Republican politicians responded to the Dred Scott decision by questioning whether this was a Supreme Court decision that they should abide by -- one of the issues that was clearly at stake in the Lincoln-Douglas debates. Stephen Douglas pressed Lincoln on this, of course, and Lincoln, in effect, ultimately said that the Republican Party would remain hostile to the Dred Scott decision.

The Dred Scott decision did cause a genuine level of despair in northern black communities by the summer of 1856, and for some years after that. In speech after speech, in 1857 and '58, Frederick Douglass would do his customary thing: He would begin with hope in his speech, but he usually ended his speeches in 1857 and '58 with that Biblical line that said, uh, "I walk by faith and not by sight." He was struggling by that point to make the argument to his fellow blacks that they had a future in America.

That period between 1857 and the outbreak of the war in 1861 is a time of increasing desperation among northern black leadership. They begin to struggle even with each other over how to define their futures. They have bitter debates over immigration schemes and whether to stay in America, whether to join this Republican Party, or find some way to join it, whether to organize even some kind of third political party movement. There had been a movement in the '50s called the Radical Abolition Party. It's a desperate time for black leaders because they've been told now that their people have no future in the country, and their struggle now is to define a future.

The Dred Scott decision, the birth of the Republican Party, this whole new political crisis over slavery, is also important in the South among slaves themselves. We have plenty of evidence that shows us that, beginning in 1856, with the presidential election campaign of 1856, and again in '58 Congressional elections, and certainly in 1860, there's a lot of reaction in the Southern white

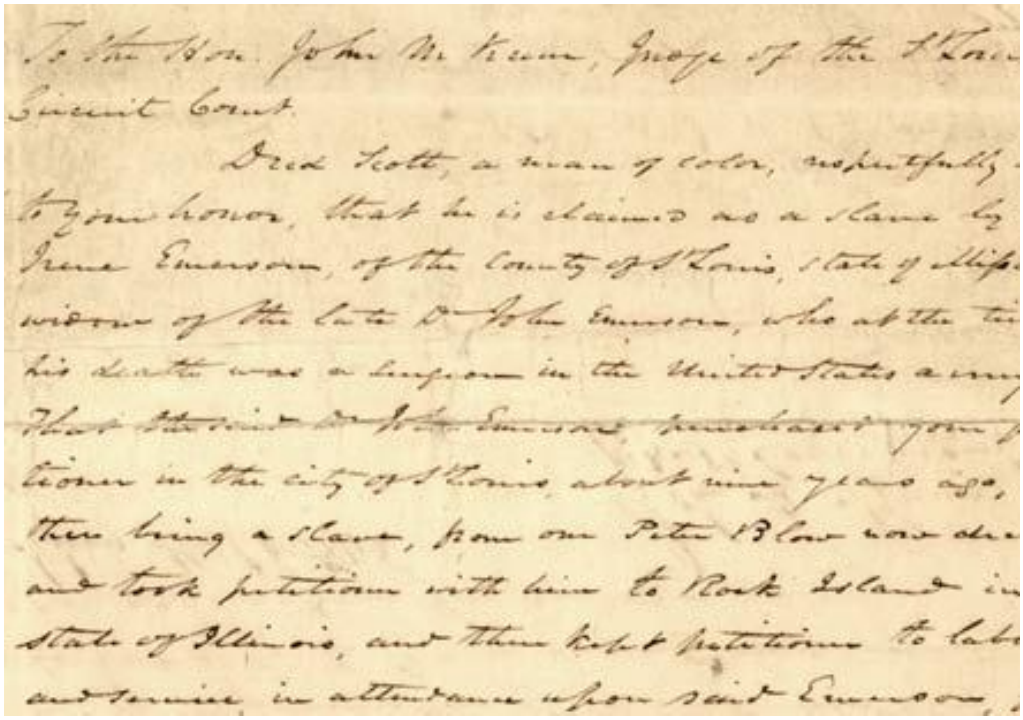
ore slaves gather around

press, saying that slave owners should keep their slaves away from political meetings, because the more slaves gather around these political meetings, the more they're going to become aware of the political crisis over slavery.

And from 1856 to the outbreak of the Civil War, there's a great deal of talk in the southern press about what were called "insurrection scares". There were insurrection scares particularly in Texas in 1860. Now, often these were plots about which people knew next to nothing. These were fears as much as they were reality. But there's no question that among the slaves in the South, in certain areas, they were becoming completely aware that there was a larger political crisis out there in the land over them, over slavery.

Scott's Freedom Suit, 1846
Legal Document

The Dred Scott case began in St. Louis Circuit Court in 1846 when Scott and his wife Harriet, 28, filed separate freedom suits against their owner, Irene Emerson. In that era, freedom suits or legal actions claiming wrongful enslavement were quite rare but still possible under most state laws.



To the Hon. John M. Krum, Judge of the St. Louis Circuit Court.

Dred Scott, a man of color, respectfully ... to Your Honor, that he is claimed as a slave by Irene Emerson, of the County of St. Louis, State of Illinois, widow of the late Dr. John Emerson, who at the time of his death was a surgeon in the United States army ... That the said Dr. Emerson purchased your petitioner in the city of St. Louis, about nine years ago, then being a slave, from one Peter Blow ... and took petitioner with him to Rock Island in the State of Illinois, and there held petitioner to labor and service in attendance upon said Emerson, ...

Election of 1860
Political Cartoon

THE POLITICAL QUADRILLE. MUSIC BY DRED SCOTT
Published by Rickey, Mallory & Company, Cincinnati, 1860.

Figures left to right clockwise:

John C. Breckinridge dances with **James Buchanan**.

Dred Scott seated plays the violin.

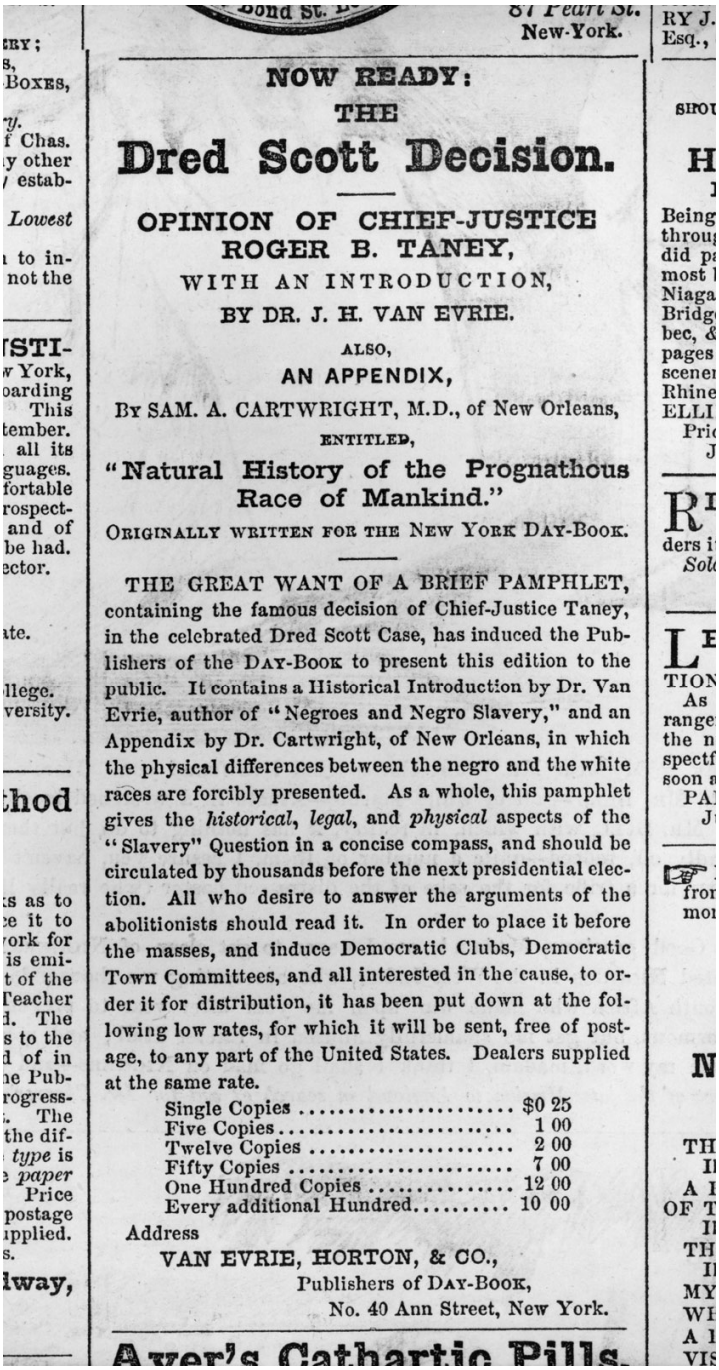
Lincoln dances with African American woman.

John Bell dances with Native American.

Stephen Douglas dances with a sovereign in

rags.

Dred Scott Decision
Newspaper Article



87 Pearl St.
New-York.

NOW READY:

THE

Dred Scott Decision.

OPINION OF CHIEF-JUSTICE ROGER B. TANEY,

WITH AN INTRODUCTION,

BY DR. J. H. VAN EVRIE.

ALSO,

AN APPENDIX,

By SAM. A. CARTWRIGHT, M.D., of New Orleans,

ENTITLED,

"Natural History of the Prognathous Race of Mankind."

Originally written for the New York Day-Book.

THE GREAT WANT OF A BRIEF PAMPHLET, containing the famous decision of Chief-Justice Taney, in the celebrated Dred Scott Case, has induced the Publishers of the Day-Book to present this edition to the public. It contains a Historical Introduction by Dr. Van Evrie, author of "Negroes and Negro Slavery," and an Appendix by Dr. Cartwright, of New Orleans, in which the physical differences between the negro and the white races are forcibly presented. As a whole, this pamphlet gives the *historical*, *legal*, and *physical* aspects of the "Slavery" Question in a concise compass, and should be circulated by thousands before the next presidential election. All who desire to answer the arguments of the abolitionists should read it. In order to place it before the masses, and induce Democratic Clubs, Democratic Town Committees, and all interested in the cause, to order it for distribution, it has been put down at the following low rates, for which it will be sent, free of postage, to any part of the United States. Dealers supplied at the same rate.

Single Copies	$0 25
Five Copies	1 00
Twelve Copies	2 00
Fifty Copies	7 00
One Hundred Copies	12 00
Every additional Hundred	10 00

Address

VAN EVRIE, HORTON, & CO.,
Publishers of Day-Book,
No. 40 Ann Street, New York.

Ayer's Cathartic Pills.