

THE DRED SCOTT DECISION



Dred Scott (Photo courtesy Missouri Historical Society, St. Louis)

BACKGROUND

Dred Scott was an African American slave who sued for his freedom in 1846. After 11 years of legal battles in state and federal courts, he remained a slave. In 1857, the United States Supreme Court declared in its infamous *Dred Scott v. Sandford* decision that all persons of African American ancestry could never become citizens of the United States and therefore, could not sue in federal court.

During this period, the United States was divided into the North where slavery was illegal and the South where slavery was legal, according to the Missouri Compromise, an 1820 agreement which prohibited slavery in the former Louisiana Territory north of the parallel 36° 30' north latitude (the southern boundary of Missouri), except within Missouri. The Dred Scott decision greatly alarmed the anti-slavery movement and intensified the conflict growing in a country where a slave owner could purchase a slave in a slave state and then travel with the slave to land where slavery was illegal. Today the case is considered by experts to have contributed to the eruption of the American Civil War in 1861.

Dred Scott was born around 1799 as a slave of the Peter Blow family. Scott moved with Blow from Virginia to St. Louis, Missouri, both slave states, in 1830. In 1832, Peter Blow died, and Scott was bought by army surgeon Dr. John Emerson, who was stationed at Jefferson Barracks just south of St. Louis. Over the next approximately nine years, Scott traveled with Dr. Emerson as he was transferred to military posts in the free state of Illinois and later, Fort Snelling in Minnesota (then Wisconsin Territory), where slavery was also prohibited. While in Wisconsin Territory, Dred Scott met and married Harriet Robinson. By 1842, the Scotts returned to St. Louis to join Dr. Emerson who had been relocated to Jefferson Barracks.

The extended stays in Illinois and Wisconsin territory, both free soil, gave Scott the legal standing to sue for freedom, but he didn't make claim while on free land. It is said that after Dr. Emerson's death in 1843, his widow, Irene, refused Scott's offer to buy his freedom from her and instead hired him out. Dred Scott then filed his petition against Irene Emerson in St. Louis Circuit Court on April 6, 1846.

It is not known for certain why Scott didn't sue while on free land, nor why he filed suit when he did. It is known, however, that he sued simply to gain his freedom. He had no political motive himself, but did, during the 11 years of litigation, receive legal and financial help from the sons of Blow, his original master, and other white individuals who supported his cause. While there were many other such freedom suits based on residence in free territory filed in the early 19th century, Dred Scott's claim became not only the famous test case, but one of the most important cases ever brought in the United States.

LOWER COURT CASES

1847 First state trial, St. Louis Circuit Court. Emerson wins.

On June 30, 1847, Scott went to trial in St. Louis Circuit Court. The case was heard on the first floor, west wing courtroom of St. Louis' Old Courthouse. (The west wing was radically altered in 1855, and the courtroom used is no longer in existence, although the space can still be seen.) The issue before the court was that of freedom; no one questioned whether Scott was a citizen or whether the Missouri Compromise was constitutional. He lost because the hearsay evidence presented could not prove he was owned by Mrs. Emerson. He was, however, granted a second trial.

1850 Second state trial, St. Louis Circuit Court. Dred Scott wins case and freedom.

Scott's second trial was held in the same courtroom on January 12, 1850. The jury decided Scott should be freed following other Missouri cases holding that state laws no longer applied to slaves taken to other jurisdictions, or "once free, always free."

1852 State appeal, Missouri Supreme Court. Emerson wins.

Mrs. Emerson appealed the verdict to the Missouri Supreme Court, and in 1852, that court reversed the lower court, sending Scott back into slavery. The previous year, the court had become an elected body, and two of the court's three judges, Judges William Scott and John Ryland, were pro-slavery men determined to overturn past rulings to make a political point.

1854 Federal trial, United States Circuit Court for the District of Missouri. Sanford wins.

After marrying Dr. C. C. Chaffee, an abolitionist from Massachusetts, the former Mrs. Emerson transferred ownership of her slaves to her brother, John Sanford, a resident of New York. Because Scott and Sanford were citizens of two different states, a case could be filed in federal court on the basis of diversity of citizenship. Scott was persuaded by St. Louis attorney Roswell M. Field, father of poet Eugene Field, to file suit in the United States Circuit Court for the District of Missouri.

The federal court trial of *Scott v. Sandford* (Sanford was misspelled in the case filing) was unpretentious and received little attention. It took place on May 15, 1854 on the second floor of the Papin Building in St. Louis. (The Papin Building stood near the area where the north leg of the Gateway Arch stands today.) During this time, there was no federal courthouse, so the federal courts rented space until the Old Post Office was completed in 1884.

Judge Robert W. Wells presided over the case, and two prominent local attorneys represented the litigants: Roswell Field for Scott and Hugh Garland for Sanford. In this case, the question first arose as to whether Scott had the right as a citizen to sue in a federal court. Wells accepted jurisdiction, but instructed the jury that Scott was still a slave, following the Missouri Supreme Court's decision and the U.S. Supreme Court's *Strader v. Graham* which ruled that a state may apply its own laws to slaves living outside its border but owned by its residents. The jury found for Sanford, and Scott remained a slave. Wells said in a letter to a friend dated February 12, 1856, "My feelings were deeply interested in favor of the poor fellow, and I wish the law was in favor of his freedom."

U.S. SUPREME COURT CASE

1856 Federal appeal argued, U.S. Supreme Court.

Dred Scott's case was appealed to the U.S. Supreme Court. By 1856, slavery was the single most explosive issue with enormous political implications in a presidential election year. As Scott's quest for freedom was heard before a national audience in the Supreme Court, it became much more than an individual's petition.

The case was argued first in February and again in December 1856, by nationally prominent attorneys: Montgomery Blair and George Curtis for Scott and Reverdy Johnson and Henry Geyer for Sanford. The Sanford side challenged the jurisdiction of the court and then argued that if that failed, that living in free states and territories did not make Scott free.

The first thought of the Supreme Court was to say they had no jurisdiction: Dred Scott was not a citizen under the law of Missouri and the Supreme Court could not interfere with a state matter. Justice Samuel Nelson (father of Rensselaer Nelson, future U.S. District Judge, District of Minnesota, 1858) was to author the opinion on the narrow grounds above. There was too much disagreement, however, so Nelson suggested a re-argument to settle the points where the justices were divided.

The case was re-argued in the December term of 1856 and announced on March 6, 1857, three days after the inauguration of President James Buchanan, who had had a hand in pressuring one of the justices to concur because he considered his election to be a mandate to save the Union by repression of the abolitionist movement.

1857 U.S. Supreme Court Decision. Landmark case rules in favor of Sanford and overturns Act of Congress!

The court ruled in favor of Sanford, seven to two. The majority of the Supreme Court justices had been appointed by pro-slavery presidents from the South, and some of these justices were from slave-holding families.

The March 6, 1857 decision of *Scott v. Sandford*, 60 U.S. 393, authored by Chief Justice Roger B. Taney, is considered by some legal scholars to be the worst ever rendered by the Supreme Court. According to scholars, Taney ignored precedent, the Constitution, and history as he crafted the opinion to settle the issue of slavery and the question of African American citizenship in a pro-slavery, pro-South decision. The court ruled that:

- African Americans could not become citizens of the United States and therefore, could not sue in federal court
- Dred Scott's residence in a free state did not free him
- Missouri Compromise Act was unconstitutional and void
- Congress did not have the power to prohibit slavery in the territories

THE U.S. SUPREME COURT JUSTICES

These were the men, except for the two dissenters, who left Dred Scott a slave, caused the U.S. Supreme Court a terrible loss of prestige, and whose decision is considered one the precipitating causes of the American Civil War. While six of the Justices concurred with Chief Justice Taney, their separately written opinions varied on specific issues, and their concurrence varied between enthusiastic agreement and reluctant acquiescence.

Roger B. Taney (1836-1864) Born in Maryland. Nominated by Andrew Jackson. He freed the slaves he had inherited but had a reactionary states' rights stance on slavery. He believed the federal government had no right to limit the institution of slavery and thought questions involving slavery should be resolved by individual states. Thus, he took over writing of the opinion from Justice Nelson.

John Catron (1837-1865) Born in Virginia. Nominated by Andrew Jackson. He supported states' rights and slavery and said that freed slaves should be required to relocate to Liberia. He concurred with Taney's opinion, but took a more moderate view on citizenship. Although a Southerner in background, he sided with the Union in the Civil War.

Peter V. Daniel (1842-1860) Born in Virginia. Nominated by Martin Van Buren. He was a strong supporter of states' rights, limiting the federal government to only what was named in the Constitution. A strong supporter of slavery, he believed that an owner might free a slave but could never make him a citizen. He concurred enthusiastically, describing slaves as inferior and as property.

Samuel Nelson (1845-1872) Born in New York. Nominated by John Tyler. His father financed his education by the sale of a slave. In New York he was noted for working to extend voting rights to men without property. He concurred with the result of the majority, but submitted his own opinion, which had originally been planned to be the opinion of the court, deciding the case on the narrow grounds that it was a question of Missouri law, that the Illinois law did not have jurisdiction in Missouri, and that the duty of the federal courts was to follow the Missouri opinion.

Robert C. Grier (1846-1870) Born in Pennsylvania. Nominated by James Polk. He was described as being not particularly pro-slavery, but opposed to abolitionists. He was a strong Union supporter and considered secession "insanity." After being pressured by then President Buchanan, who had heard he was wavering, he wrote a brief two paragraph opinion including the statements "I concur with Mr. Justice Nelson in the questions discussed by him" and then "I also concur with the opinion of the court as delivered by the Chief Justice...."

John A. Campbell (1853-1861) Born in Georgia. Nominated by Franklin Pierce. He freed his own slaves when he became a Supreme Court Justice and believed that slavery would eventually disappear. "I concur in the judgment pronounced by the Chief Justice," began his opinion. He resigned his Supreme Court seat at the start of the Civil War since his circuit was no longer in the Union, but was opposed to secession. He did attempt some diplomatic efforts which caused him to be regarded as traitorous by both sides, threatened with lynching in Alabama when he returned home, and jailed by the North for four months after the War.

James M. Wayne (1835-1867) Born in Georgia. Nominated by Andrew Jackson. His family owned a plantation with rice fields, 100 slaves, and actually engaged in slave commerce. A strong nationalist, he constantly sought compromise between support for the Union and southern dissatisfaction with federal policies. He urged Taney to broaden the Dred Scott opinion beyond Nelson's draft, and once written, said "Concurring as I do entirely in the opinion of the court, as it has been written and read by the Chief Justice—without any qualification of its reasoning or its conclusions..." He retained his seat on the court during the Civil war and was a strong supporter of the Union. Georgia declared him an enemy alien and seized his property. His son fought for the South.

DISSENTERS

Benjamin R. Curtis (1851-1857) Born in Massachusetts. Nominated by Millard Fillmore. At one point vilified in Massachusetts as the "slave catcher judge" for having declared the Fugitive Slave Act constitutional, he became a hero to the anti-slave movement with his dissent in the Dred Scot decision. He argued that, "At the time of the adoption of the Articles of Confederation all free native born inhabitants of the states of New Hampshire, New York, New Jersey and North Carolina, though descended from African slaves" were citizens and that residence in a free state freed a slave. He filed his dissent with the Court Clerk on March 6, 1857 and forwarded it to a Boston newspaper.

John McLean (1830-1861). Born in New Jersey. Nominated by Andrew Jackson. In his dissent he argued that many of African descent were citizens in the New England states, that the federal government did have the power to prohibit slavery in the territories, and that residence in a free state did emancipate a slave, citing previous cases, some from Missouri, in which a slaveholder taking a slave to a free state liberated the slave. After the Civil War, McLean's dissent was virtually written into the Constitution as the 14th Amendment.

AFTERMATH: THE IRONY OF JUSTICE

March-April, 1857

Supreme Court Vilified; Justice Curtis Resigns.

The Supreme Court decision further divided a nation already at odds. Abolitionists were outraged and distributed pamphlets abominating Justice Taney and the six Justices who concurred with the opinion. The decision was cause for great strife even within the high court, ultimately leading to the resignation of Justice Curtis, who had vigorously dissented the decision.

May 26, 1857

Taylor Blow Frees Dred Scott.

Ironically, Chaffee transferred ownership of Dred Scott to Taylor Blow, the son of Scott's original owner and supporter of Scott in his pursuit of freedom, and on May 26, 1857, Blow formally emancipated Dred and Harriet Scott in St. Louis. (During the mid-1800s Taylor Blow lived on the block upon which the Thomas F. Eagleton U.S. Courthouse in St. Louis was later built.)

September 17, 1858

Dred Scott Dies.

Dred Scott enjoyed only nine months of freedom before dying from complications with tuberculosis on September 17, 1858. Dred Scott was put to rest in St. Louis. His grave marker, added in 1957, reads:

“Dred Scott Born about 1799 Died Sept. 17, 1858”

“Dred Scott: Subject of the Decision of the Supreme Court of the United States in 1857 Which Denied Citizenship to the Negro, Voided the Missouri Compromise Act, Became One of the Events That Resulted in the Civil War”

1858-1860

Lincoln Comes to the Forefront of National Politics.

Shortly after the Supreme Court decision had been handed down, Abraham Lincoln made a bid for a senate seat. During this race, Lincoln delivered his famous “House Divided” speech on June 16, 1858 in which he said, “A house divided against itself cannot stand. I believe this government cannot endure permanently half slave and half free.” Although Lincoln lost his bid for the senatorial seat, he was pushed to the forefront of the Republican party and was elected President of the United States in 1860.

1860-1861

Southern States Secede from the Union.

Almost immediately upon Lincoln’s election, South Carolina seceded from the Union, and Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas followed soon after.

AFTERMATH: FIGHT BE NOT IN VAIN

1861

Civil War Erupts.

Division within the country was solidified when Confederate batteries fired upon Fort Sumter on April 12, 1861, marking the beginning of the Civil War. Virginia, Tennessee, Arkansas, and North Carolina joined the states that had seceded from the Union, rounding out the Confederate States of America. Delaware, Maryland, Kentucky, and Missouri were regarded as “border states” and remained a part of the Union, but each was very divided in its sympathies.

1863

Lincoln Issues the Emancipation Proclamation.

On January 1, 1863, President Lincoln issued the second of two executive orders declaring freedom of slaves within confederate states. While most slaves were not freed right away, thousands were freed that very day. The Proclamation gradually, however, did emancipate nearly all four million slaves, as it gave the Union armies the legal standing to free slaves as they took control of southern areas.

1865

13th Amendment Ends Slavery.

After the end of the Civil War in 1865, 27 states ratified the 13th Amendment of the Constitution, putting an end to slavery in the United States. It reads:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

1868

14th Amendment Grants Citizenship.

The forward strides for former slaves did not stop with freedom alone. In 1868, the 14th Amendment to the Constitution granted citizenship to all persons born or naturalized in the United States. With the adoption of the 13th and 14th Amendments, the decision of *Dred Scott v. Sandford* was overturned. The 14th Amendment reads:

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. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United State; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

1870

15th Amendment Grants Right to Vote.

As restrictions began to slowly lift for African Americans, the 15th Amendment granted the right to vote to African American men:

The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or any previous condition of servitude.

Missouri, the nexus of freedom and slavery under the Missouri Compromise, was also the birth place of the Dred Scott case. Scott did not achieve freedom for himself through his court battles. His case did, however, hasten the Civil War, and that battle, along with the adoption of 13th and 14th Amendments to the Constitution, eventually won freedom for all African American slaves.

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