

Dred Scott v. Sandford (1857)

When it was written in 1787, the constitution, in effect, permitted slavery. Many of the founders owned slaves. Others opposed slavery.

They hotly contested the issue of how to deal with slavery during the Constitutional Convention, and the problem of slavery continued to plague the new nation. By the 1850's some states had forbidden slavery while others still protected it.

In 1834, Dred Scott, a slave, was taken by his master to Rock Island, Illinois, a town in a free state. His master later took him to the Wisconsin Territory, where the Missouri Compromise of 1820, a federal law, had forbidden slavery. His master then brought Scott back to Missouri, a slave state. Scott brought suit against his master claiming himself a free man because he had resided in areas that had banned slavery.

The Constitutional Issue

The case involved three issues: (1) Scott had lived in the free state of Illinois. Did he become free while living there? Should Missouri have to recognize that freedom? (2) Scott had traveled to the Wisconsin territory, which Congress had declared a free territory in the Northwest Ordinance of 1787 and prohibited slavery in all of the American territories north and west of the Ohio River. This region, called the Northwest Territory, consisted of land now occupied by the states of Ohio, Indiana, Illinois, Michigan, Wisconsin and the eastern portion of Minnesota.. Did he become free while living there, and should Missouri have to recognize that freedom? (3) Did the Supreme Court have the power or jurisdiction to hear this case?

Scott's Claim

Scott claimed that by bringing him to Illinois, his master had freed him. Illinois did not allow slavery. Therefore, any slave brought there became free. Once Scott became free in Illinois no Missouri Law could turn him into a slave

again. Scott's lawyers further argued that Missouri should recognize the laws of another state in the Union.

Scott also claimed that he was free under the Missouri Compromise. Passed by Congress and recognized as the law of the land since 1820, the Missouri Compromise prohibited slavery in all the federal territories north of the 36°30' latitude, the southern boundary of Missouri. When Scott's master brought him to Fort Snelling, (in the Wisconsin Territory) in what would become the State of Minnesota, Scott had also become free. Even if Missouri chose not to recognize the laws of Illinois, the constitution required all states to recognize the laws of Congress, as the supremacy clause of the Constitution (Article VI, Paragraph 2) clearly stated.

Finally, Scott's lawyers argued that the Supreme Court had the power to hear this case. Article III, Section 2 of the Constitution established the jurisdiction (authority to hear cases) of the federal courts. This jurisdiction extended to cases "between citizens of different states." Scott's master was now dead, leaving him technically under the control of his dead master's brother-in-law, John F.A. Sandford, who lived in New York (notice that the case is called Scott V. Sandford because during the proceedings a clerk misspelled the name of the defendant). Scott claimed that if he was free then he had to be a citizen of Missouri. As such, he could sue a citizen of New York in federal court.

The Decision

By a 7 to 2 vote, the Supreme Court ruled against Scott on all three issues. In an extraordinary decision, all nine judges wrote opinions that totaled 248 pages. Chief Justice Roger B. Taney's fifty-five page "Opinion of the Court" expressed the collective view of the majority.

Taney first asserted that Scott could not sue in a federal court, because he was not a citizen of the United States. Taney asserted that no black person, slave, or free, could possibly be a citizen. Taney wrote "The question is simply this: Can a Negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States...? Taney answered his own question: "We think they are not... included, and were not intended to be included, under the word "citizens" in the Constitution...." Rather, Taney asserted that at the time the Constitution was written, blacks were "considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and whether emancipated or not...had no rights or privileges but such as those who held the power and the Government might choose to grant them."

Having concluded that Scott had no right to sue in a federal court, Taney might have stopped. However, the issue of slavery in the federal territories was an important political question, and Taney wanted to let the nation know where the Court stood on it. So, Taney examined Scott's other claims.

The Court easily disposed of the claim to freedom based on Illinois law. Taney held that Scott lost whatever claim to freedom he had while in Illinois when he left the state, and no state or precedent obligated Missouri to enforce the Illinois law.

Scott's claim based on the Missouri Compromise presented more complications. Considering the Missouri Compromise passed by Congress in 1820, as the law of the land it would obligate the State of Missouri to recognize it. Taney, however, decided that the ban on slavery in the Missouri Compromise was unconstitutional. Taney reasoned that the territories belonged to all the citizens of the United States. Under the Constitution's Fifth Amendment no one could deprive a person of his property without "due process of law" and "just compensation." But, the Missouri Compromise

would deprive men like Scott's owner of their property simply for entering federal territories. Thus, the Court held that the Missouri Compromise was unconstitutional. For only the second time, the Supreme Court declared an act of Congress unconstitutional.

In a sixty-nine page dissent, Justice Benjamin R. Curtis took Taney to task at every point. Curtis pointed out that at the time of the ratification of the Constitution blacks voted in a number of states, including Massachusetts, Pennsylvania, and North Carolina. Thus, Curtis argued, free blacks had always been citizens of the nation, and if Scott was free the Court had jurisdiction to hear his case. Curtis also argued in favor of the constitutionality of the Missouri Compromise, which he pointed out had existed as accepted law for more than three decades and served as the basis of the sectional understanding that kept the North and South together in one Union.

Taney had hoped to settle the issue of slavery in the territories through the Dred Scott verdict. Instead, Taney's decision itself became a political issue. Lincoln and Douglas argued over its merits in their famous debates of 1858. Instead of lessening sectional tensions, Taney's decision exacerbated them and helped bring on the Civil War.

With the Civil War finally over, the Thirteenth Amendment (1865) ended slavery. The Fourteenth Amendment (1868) gave blacks citizenship. Thus, amending the Constitution overturned the Dred Scott decision.

NAME _____ DATE _____

THE DRED SCOTT CASE (1857)

Student Task Sheet

1. Who was Dred Scott, and why was this case brought to the Supreme Court?
2. What were the three legal issues that this case addressed?
3. For each of these three issues, describe the reasoning behind Dred Scott's claim.
4. What was the ruling of the Court? What reasons did the majority of the Court give for Scott not being allowed to sue in a court of law?
5. What was the majority opinion concerning Scott's claim to freedom, which was based on the fact that he had been first to Illinois and then Wisconsin?
6. Why did the Court rule that the Missouri Compromise was unconstitutional?
7. Which two of the following statements explain the Court's ruling in the case?
 a. Under the Constitution slaves could not be citizens.
 b. Slavery was to be prohibited in all new territories.
 c. The Thirteenth Amendment ending slavery was unconstitutional.
 d. Congress had no constitutional authority to ban slavery in territories like Wisconsin.
8. Which of the following amendments eventually overturned the Dred Scott decision?
 a. The Tenth Amendment
 b. The Thirteenth Amendment
 c. The Fourteenth Amendment
 d. The Seventeenth Amendment

Homework Question: On loose-leaf, in two or three paragraphs, respond:

Explain how the decision of the court created further tensions between the states and eventually led to the Civil War.