



Remembering Dred Scott

Article

PART 1

FREDERICK, Maryland. In 1857, U.S. Supreme Court Chief Justice Roger Brooke Taney made what might have been the single most significant decision in the intensifying debate over slavery. In the famous *Dred Scott v. Sanford* case, Taney ruled that freed slaves and their descendants could never be U.S. citizens. The decision would become a major catalyst for the Civil War.

The *Dred Scott* case had its origin in 1846, when Dred Scott and his wife Harriet, both slaves, sued for their freedom. The Scotts were then living in Missouri, a state where slavery was legal. However, they felt they had grounds to sue because their owner had previously taken them to live in territories where slavery was prohibited. The Scotts sought emancipation under a Missouri law. The law stated that slaves who were taken to free areas had the right to be freed, even if they returned to Missouri. Missouri's law meant, it was said at the time, "Once free, always free."

After 10 years of appeals, the *Dred Scott* case was brought before the Supreme Court. It was a highly publicized case, as the nation at that time was becoming increasingly divided over the issue of slavery. It was clear that the outcome of the case would have important political effects. On March 6, 1857, the Supreme Court ruled against the Scotts, denying the legality of black citizenship in America. Chief Justice Taney read the majority opinion of the Court. The opinion stated that slaves were not citizens of the United States and therefore could not expect any legal protection from the federal government. Slaves would remain slaves wherever their owners took them, it was clear, regardless of whether the state or territory was free or not.

In his controversial ruling, Taney, a former slave owner, wrote that since the country's founding, blacks had been "bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made....It is [clear from the Constitution] that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration."



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*The 1857 Dred Scott decision
contributed to the start of the Civil
War.*

The decision stunned and incensed abolitionists. Especially troubling for many was Taney's dismissal of the promise of the country's founders that "all men are created equal." Some abolitionists were heartened by the outrage generated by the decision, however. They saw it as a step toward doing away with what slavery supporters called "our peculiar institution."

As part of the *Dred Scott* ruling, the Court also ruled that Congress could not ban slavery in new territories. This effectively rendered the Missouri Compromise unconstitutional. The Missouri Compromise was passed in 1820. The ruling prohibited slavery in the Louisiana Territory north of the 36° 30' latitude line. The compromise had been repealed in 1854. However, the *Dred Scott* decision ruled out the possibility that a law like it could be put in place again. That's because the *Dred Scott* decision stated that Congress never had the authority to prohibit slavery in the territories in the first place.

Ultimately, the *Dred Scott* decision would be overturned by the ratification of the 13th and 14th Amendments of 1865 and 1868. These amendments abolished slavery and declared all persons born in the United States to be citizens.

Today, legal scholars consider the *Dred Scott* decision the worst ever rendered by the Supreme Court. Robert Bell is the current Maryland Court of Appeals chief judge. Bell called the *Dred Scott* opinion "the ultimate bad decision." He said the opinion was written by a justice who relied on "weak reasoning." The ruling, Bell added, "left America in shock and throes and convulsions." The distress, he said, could be cured only by slavery's abolition.

Former federal judge Kenneth Starr said the case has a lesson for today's judges. Besides being racist and morally bankrupt, according to Starr, the *Dred Scott* decision reflected the arrogance of judges like Taney. Such judges, Starr said, tried to elevate themselves over the Constitution.

"This is an enduring lesson...for judges...to be humble, because Chief Justice Taney was anything but humble," Starr said. "Quite apart from its immorality as a matter of natural justice and fairness, it also showed the arrogance on the part of the Supreme Court."

The Associated Press contributed to this story.

PART 2

Dig Deeper

As you read in "Remembering Dred Scott," the *Dred Scott* decision was one catalyst for the Civil War. This was because it intensified America's deep divisions over slavery. But the decision didn't cause the war directly. In fact, the Civil War did not start over any one thing. It started over a number of political and philosophical disputes all tied up together, like a knot that's difficult to untie.

For 40 years before the start of the war, American leaders tried several measures to hold the Union together in the face of these disputes. The Missouri Compromise of 1820 attempted to maintain the balance between the number of slave and free states. When new territories became part of the Union after the Mexican War (1846-1848), the federal government had to come up with another compromise. The Compromise of 1850 reset the balance, but one part of it caused big trouble: the Fugitive Slave Act. The act made it easier for slave owners to capture runaway slaves even in free states, and anti-slavery northerners hated it.

In 1854, the Kansas-Nebraska Act threw out the Missouri Compromise. (The *Dred Scott* decision of 1857 would declare that the Missouri Compromise had been unconstitutional—Congress could not ban slavery in a territory.) Now, the people of new states would be allowed to vote on whether to permit slavery. Southerners and their northern

political supporters felt it was best to leave the decision to the states instead of letting the federal government make the rules. But the Kansas-Nebraska Act led to violence in the new state of Kansas, as pro- and anti-slavery settlers clashed with one another.

Strong negative responses to the Kansas-Nebraska Act in the North led to the creation of a new, anti-slavery political group—the Republican Party. Previously, the two main parties, Whigs and Democrats, had members in both the North and the South. This helped keep the political system in balance. But most Republican supporters were from northern states, a fact that pushed the North and the South further apart. The *Dred Scott* decision didn't help one bit, provoking fears among anti-slavery northerners that it might become impossible for them to keep slavery out.

Southerners knew that their economy and society were built on slavery, so they wanted to protect it. In 1859, when John Brown tried to start a slave rebellion in Virginia, southerners' feelings of being under attack increased. When Abraham Lincoln was elected president in 1860 with no support from states in the Deep South, leaders of those states felt that they had no choice but to leave the Union and form their own country. And so they seceded, even after Lincoln said that he would not disturb slavery where it existed and wanted only to keep it out of new territories and states.

In 1861, the South was willing to fight to defend its way of life, and the North was willing to fight to keep the Union together. At its onset, the Civil War was not yet a war for human freedom. That would come later.

Dictionary

abolitionist (*noun*) a person who supported outlawing slavery

arrogance (*noun*) extreme pride or feeling of superiority over others

convulsion (*noun*) a state of massive upset and violent commotion

intensify (*verb*) to strengthen or increase

ratification (*noun*) the act of giving formal approval to something, usually an agreement