The 1857 Dred Scott Decision

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ABSTRAKT

Tato bakalářská práce se zabývá soudním případem Dreda Scotta, který se odehrál v roce 1857 a dodnes je významnou částí dějin Spojených států. Toto rozhodnutí, které měl na starosti předseda Nejvyššího soudu Roger B. Taney, bylo, a stále je, považováno za jedno z nejhorších rozhodnutí Nejvyššího soudu. Tato práce rozebírá, kdo byl Dred Scott a jak celý konflikt vznikl. Práce zblízka analyzuje Spojené státy v době otroctví a popisuje, jaká práva měli v té době lidé tmavé pleti. Zároveň také zkoumá, jaký vliv měl sekcionální konflikt na soudní rozhodnutí a jak případ přispěl k Občanské válce. Cílem této práce je přiblížení celého soudního případu, co mu předcházelo a jak tento případ Spojené státy ovlivnil.

Klíčová slova: Spojené státy, Dred Scott, soudní rozhodnutí, Nejvyšší soud, otroctví, svoboda, 1857, Afroameričané, Roger B. Taney, právo, Občanská válka, Jih, Sever, politika.

ABSTRACT

This bachelor thesis deals with the case of Dred Scott, which took place in 1857 and is a significant part of the history of the United States until this day. This decision, which was made by Chief Justice Roger B. Taney, was and still is, considered to be one of the worst decisions ever made by the Supreme Court. This paper explains who Dred Scott was and how the whole conflict originated. It closely analyses the United States in the times of slavery and describes the rights which the people of colour had back then. At the same time, the thesis explores the influence of sectional conflict on the decision and how the case contributed to the Civil War. This work aims to take a closer look at the whole case, what led to this case, and how it influenced the United States.

Keywords: United States, Dred Scott, court decision, Supreme court, slavery, freedom, 1857, Afro-Americans, Roger B. Taney, law, Civil War, South, North, politics.

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I hereby declare that the print version of my Bachelor's thesis and the electronic version of my thesis deposited in the IS/STAG system are identical.

Motto:

"The worst form of injustice is pretended justice."

-Plato

"Those who deny freedom to others, deserve it not for themselves."

-Abraham Lincoln, Complete Works – Volume XII

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INTRODUCTION

It is hard for us to imagine we were once living in times when slavery was legal. It is, however, universally known that African Americans did not have an easy life in the previous centuries. Many of them tried to purchase or win their freedom so they could become their own masters. They have, however, not always succeeded. Racism had blindfolded many Americans, and, in this darkness, they could only see themselves. Not only did they believe in their inferiority but also took the most fundamental rights from the people of colour.

Dred Scott travelled a lot with his master which resulted in his stay in the free territories or jurisdictions. Along with Dred's suit, his wife and children's fate was also at stake. Consequently, the decision's outcome would determine the fate of the whole family.

The Dred Scott decision is one of the most well known and most despised cases in the Supreme Court's history. Many factors played a huge role in Scott's unsuccessful suit for freedom. Politicians were hugely divided, and some saw the opportunity in Dred Scott's case. What once was an innocent suit for freedom turned out to be one of the biggest tools for cancelling an anti-slavery policy. Many historians are still puzzled by Taney's biased decision which not only made the Missouri Compromise unconstitutional but also denied that African Americans could not be citizens. Taney's famous claim that African Americans "had no rights" caused great upheaval and strengthened the pro-slavery views held by most Democrats.

The responses to the decision were, of course, different in the North, where many states despised the decision and took it as a strike against their non-slavery sentiments. In the end, Taney's decision did not achieve its desired effect and caused the antislavery forces to be more united than ever. Lincoln's campaign was built on the grounds of the Dred Scott decision and ultimately led to his win in the presidential campaign.

This thesis tries to document the political setting in which Dred Scott decided to sue for his freedom and describes the Court's proceedings in his case. It also highlights the division among the members of the Court and summarizes their opinions on the case. Throughout the thesis, we observe how the political intentions are projected into the opinions and how the prejudices shape the decision's outcome. Most importantly, the thesis explores various effects of the decision not only on the public opinions but also on the political parties. It also illustrates, how the decision influenced the soon-to-come Civil War and estimates, what lessons we should learn from the Dred Scott decision.

1 POLITICS AND SLAVERY BEFORE THE DECISION

The following chapter deals with political events and the slavery issue before the Dred Scott Decision. It is important to look at these milestones to obtain the necessary knowledge for understanding the significance of this case in the American legal system as well as in the issue of slavery.

The concept of racial superiority and inferiority was present long before the case itself. First known mention about Africans brought to the United States was in Jamestown, Virginia in 1619. By then, there were several Africans who usually served their masters for many years and were freed afterwards. Oftentimes masters used their slaves as workers in the tobacco or indigo fields as it was the most profitable option around Virginia. The usage of African slaves was gradually gaining popularity among Virginia colonists and by 1670, African slaves were the major source of the workforce. Continuing in this trend, African slaves were working in every American colony by the beginning of the 18th century.[1]

Slaves of African origin were generally used more in the southern territories than in the north. The percentage of black workers in the southern area was approximately 33% and for example in Virginia, one-fifth of inhabitants were black. The number of African slaves was increasing gradually and by the time of the American Revolution from 1775 to 1783, 40% of the inhabitants of the southern colonies were black slaves.[2]

Every colony had a different legal structure of slavery and people in all these different colonies performed various forms of practising the institution. These practices usually reflected individual personalities and morals. What the legal structures had in common were the laws that slavery is lifelong and hereditary. It was also given by law that slaves were not considered regular persons. To a certain degree, a black slave was reduced to a thing. This meant that slaves could be legally bought or sold and, as they were animate property, they could be forced to work. In case they had children they would also belong to the master. Fehrenbacher points out, that they thought of black slaves as domestic animals who were unable to function on their own and had to be supervised to survive. But even though the black slaves were considered to be things more than humans, there were certain aspects in

[1] Cory Gunderson, *Dred Scott Decision* (Edina: ABDO Publishing Company, 2004), 4-6.
[2] Tim McNeese, *Dred Scott V. Sandford (Great Supreme Court Decisions): The Pursuit of Freedom* (NY: Chelsea House, 2006), 18-19.

which they were acknowledged as fully conscious human beings. If there was a crime committed by a black slave, he would receive the same punishment as a regular white man.[3]

1.1 Slave codes

As mentioned above, each territory had its own way of handling the slavery issue. Concerning this matter, they developed their unique slave codes. Slave codes were generally stricter in the South than in the North.

1.1.1 The Southern Slave Codes

The first version of Virginia's slave code was established in 1661, proposing that slavery is hereditary and lasting for life. In 1705, the Act concerning Servants and Slaves was enacted. The African American slaves were considered chattel property which again showed that black slaves were compared to farm animals. It also allowed slaveowners to punish their slaves in the form of mutilation and branding. Slaves were required to carry passes if they travelled beyond their home plantations. If an owner punished or killed a slave in terms of correction, he would not be punished for his actions as if the accident never happened. Virginia also had plantation police officers whose duty was to hunt the escaped slaves. In addition, they had to monitor assemblies of black slaves and be ready to intervene in revolts. Virginia was the leader in the development of American slavery and the other colonies slowly followed Virginia's procedures.[4]

Carolina wanted to attract more settlers so, in 1663, the proprietors decided to give free land to any settler who was able to bring workers along with him. It was decided that the settler would acquire a hundred-acre land and in addition, he would receive twenty acres for every black male and ten acres for any black female. Twenty years later, the African American population was almost equal to the white population. In 1740, South Carolina passed the so-called "Negro Act" which stated that all enslaved African Americans were reduced to chattels. Among other things, it forbade African Americans to learn to read and write and it made the African custom of drumming illegal. The criminal law for black slaves imposed various penalties on black slaves in case they committed a crime against white people. The death penalty was prescribed to a black slave if he killed a white person, but if

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[3] Don E. Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective* (Oxford: Oxford University Press, 1981), 7-8.
[4] Stephen Middleton, "Repressive Legislation: Slave Codes, Northern Black Laws, and Southern Black Codes," *Oxford Research Encyclopaedias*, February 28, 2020, https://doi.org/10.1093/acrefore/9780199329175.013.634.

a white person killed a black slave, he would only have to pay a fee for the loss to the owner of that slave. In addition, if a black slave was suspected of committing a serious crime against a white person he could be whipped, interrogated, and killed. The Negro Act was present long after its enactment and it was cancelled only after the Thirteenth Amendment which abolished slavery.[5]

1.1.2 The Northern Slave Codes

In the North, slave codes were not as harsh as those in the South. However, the New York slave code was considered the harshest one. This was probably caused by the fact that there were many more slaves in New York than in any other Northern colony. Slaves were in some respects, considered persons and in some respects property. Just like in the Southern territories, slaves were reduced to chattels, so they could not testify or make contracts and they could be sold or bought. However, a slave was protected from being killed or cruelly punished and he had a right to adequate food and clothing. Unlike in the South, there were not any slave patrols, and the slaves were not prohibited to learn to read or write.[6]

1.2 The Rise of Antislavery

During the Revolutionary period, antislavery supporters started to appear. One after another, the states were determined to end the African slave trade. New England and Pennsylvania successfully abolished slavery. New York and New Jersey were on the same path. Restrictions upon manumissions were cancelled by Virginia in 1782. Maryland and Delaware later followed this example. During the 1790s, it seemed that every state from Virginia northward expressed an interest in abolishing slavery.[7]

1.3 The Northwest Ordinance

In 1787, Congress passed the Northwest Ordinance, which prohibited slavery in the Northwest Territory. It led to an even greater division of Northern and Southern states. Interestingly enough, the division seemed to be remarkably even – in terms of the number of states and number of inhabitants.[8] As Finkelman writes in his book, the notion of this law was to prohibit "slavery and involuntary servitude" in all American territories north and west

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[5] Middleton, "Repressive Legislation: Slave Codes, Northern Black Laws, and Southern Black Codes," https://doi.org/10.1093/acrefore/9780199329175.013.634.
[6] Edwin Olson, "The Slave Code in Colonial New York," *The Journal of Negro History* 29, no. 2 (April 1944): 147-149, https://www.jstor.org/stable/2715308.
[7] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 8-9.
[8] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 9.

of the Ohio River. Consisting of present-day Ohio, Indiana, Illinois, Michigan, Wisconsin, and the eastern portion of Minnesota, the Northwest Ordinance covered a wide range of territory. In 1789, with a few modifications, the reaffirmation of the Northwest Ordinance occurred.[9]

What is interesting is that in 1787 Southerners did not particularly, as one would suggest, protest against the antislavery policy of the Northwest Ordinance, even though there were more of them than Northerners. This matter was more about the division between Southerners and Northerners than the division between free and slave states. Southerners were known to be more dependent on agriculture whereas Northerners were interested in mercantilism. Maltz describes, that Southerners thought that they could join the forces with Northerners – Southern delegates assumed that Northern farmers might become the dominant economic and political force. Another reason was that they thought that it would be effective to prevent potential competitors in tobacco and indigo production – assuming that slavery would be prohibited north of the Ohio River. However, these premonitions did not come true. In the end, the Northwest Ordinance was more favourable for Northerners, although the complete extinction of slavery in the Northwest was not as clean and fast as those against slavery believed it would be.[10]

1.4 The Three-fifths Compromise

The Three-fifths Compromise was adopted by the Constitutional Convention in 1787 and it dealt with the apportionment of the House of Representatives and with the amount of money that each state would pay in taxes. According to Lynd, this Compromise "sanctioned slavery more decidedly than any previous action at a national level."[11]

At the Constitutional Convention, Northerners argued that slaves should not be counted because they were property, but the Southerners opposed that slaves should be counted equally with free men. However, when they were discussing the question of apportioning governmental expenses according to population, Northerners stuck to their usual opinion that slaves should be counted, as they claimed that slaves were persons and on the other hand Southerners argued that slaves are property. As we can observe, the two sides switched their

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[9] Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (NY: M.E. Sharpe, 1996), 34-79.
[10] Earl M. Maltz, *Dred Scott and the Politics of Slavery* (Lawrence: University Press of Kansas, 2007), 5-6.
[11] Staughton Lynd, "The Compromise of 1787," *Political Science Quarterly* 81, no. 2 (June 1966): 225, https://www.jstor.org/stable/2147971.

opinions on the matter of apportionment of seats which is not surprising, because it was clearly more advantageous for Southerners.[12]

As a result of this quarrel, the Convention brought up an old compromise called the federal ratio. The federal ratio was enacted by Congress in 1783 but had never been put up to use but, this time, it was accepted. It proposed that "the representation and direct taxes would be apportioned among the states according to their respective numbers" plus adding "three-fifths of all other persons" to the free population.[13]

The phrase "all other persons" was referring to slaves. However, it is important to mention that the Three-fifths Compromise was not aimed particularly at African Americans but rather at slaves in general. If an African American was a free person, he would be counted as a whole person for representation purposes. Finkelman points out, that thanks to the gain of more representatives from the Three-fifths Compromise, the South was able to win over the debate about the Fugitive Slave Law of 1850. It also gave them great power over the Northerners in the elections of the President, so the Three-fifths Compromise turned out to be very beneficial to pro-slavery Southerners.[14] Southerners suddenly became the dominant party. For example, in 1800, Virginia had the second biggest number of electoral votes.[15]

1.5 The Commerce and Slave Trade Compromise

Another issue the Convention had to deal with was the question of commerce. Northerners proposed that there should be import tariffs on finished products to have protection against foreign competition and at the same time to strengthen their position on the market. Northerners assumed, that Southerners would buy the goods from them. They even proposed that there should be exports on raw materials which would significantly hurt the Southern agricultural economy. Therefore, the Commerce Compromise was enacted. It imposed taxation on the import of goods from foreign countries and at the same time forbade any taxation on export. The federal government had the power to regulate interstate commerce and state governments would be in control of the trade within a state. In addition

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[12] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 10.
[13] Ibid.
[14] Paul Finkelman, "The Founders and Slavery: Little Ventured, Little Gained," *Yale Journal of Law and the Humanities* 13, no. 2 (2001): 427, https://openyls.law.yale.edu/bitstream/handle/20.500.13051/7314/19_13YaleJL_Human413_2001_.pdf?sequence=2&isAllowed=y.
[15] Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780-1860* (Baton Rouge: Louisiana State University Press, 2000), 58.

to these, the Compromise mentioned that there would have to be a two-thirds majority in the Senate to pass new commerce bills.[16]

Unsurprisingly, the Convention had a huge disagreement on the matter of the future of the African slave trade. Georgia, North Carolina, and South Carolina demanded that they should have the right to decide if they want to prohibit it or not. [17] These three states were the only ones where the slave trade was still permitted, and they even threatened to leave the Convention if it would be banned.[18] The Convention then came up with a compromise which proposed that Congress could not prohibit the African slave trade until 1808 but it had the power to impose taxes on the import, not exceeding ten dollars for each person.[19] This meant that Northerners had to wait until 1808 before Congress would have the opportunity to ban the slave trade.[20]

1.5.1 The Aftermath of the new Constitution and the Northwest Ordinance

Concerning the slavery issue after the ratification of the new federal Constitution of 1787, it remained almost entirely legal, and the state laws had the power to regulate slavery themselves. Like in the old times, each state had a different slave code. Slaves were still regarded as persons in the criminal law and therefore, punishable for their crimes. On the other hand, a slave was regarded as property in terms of civil laws. The criminal law was less severe in the western states than in the southern states and the slave codes of Virginia and South Carolina were still the harshest in the South. However, the physical punishments which were practised in the earlier times were slowly eliminated in every state.[21]

After the enactment of the Northwest Ordinance in 1787, five Northwest states – Ohio, Indiana, Illinois, Michigan, and Wisconsin - banned slavery. But even though African Americans were free in those territories they were certainly not considered to be equal to white people. State after state, in 1803 they denied African Americans their civil rights and created special black laws for them. These laws were created based solely on the skin colour

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[16] Frances Katz, "What is the Commerce Compromise?" Legal Beagle, last modified December 9, 2018, https://legalbeagle.com/7560850-commerce-compromise.html.
[17] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 12.
[18] "Bell Ringer: The Slave Trade Compromise," C-SPAN Classroom, last modified August 26, 2018, https://www.c-span.org/classroom/document/?8562.
[19] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 12.
[20] Martin Kelly, "5 Key Compromises of the Constitutional Convention," ThoughtCo. last modified July 3, 2019, https://www.thoughtco.com/compromises-of-the-constitutional-convention-105428.
[21] Fehrenbacher, *Slavery, Law and Politics: The Dred Scott Case in Historical Perspective*, 16.

of African Americans.[22] Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island had become free states by 1804.[23]

In the South, the situation was quite different. In the 1790s, tobacco, indigo and rice prices dropped. This led to a lesser need for slave labour, and it seemed that slavery could gradually diminish. The year 1793 was an important milestone for slavery, as a man called Eli Whitney invented the cotton gin. The cotton gin sped up the process of cleaning the cotton by 50 times. As a result, cotton production became very popular and profitable, and this caused a bigger demand for slaves as cotton had to be picked up by hand.[24]

1.6 The Louisiana Purchase

At first, Southerners thought of the Louisiana Purchase as a major victory concerning the struggle for control of the national government.[25] On the other hand, New Englanders were opposed to the Louisiana Purchase because they believed that this step would only encourage the expansion of slaveholders to the Louisiana territories. Having been influenced by fears about the balance of sectional power being disrupted, New Englanders questioned the rules for admitting new states and expansion. However, these concerns were not relevant to Southerners. Concerning this matter, John Randolph, Nathaniel Macon, George Nicholson, and John Taylor made a public statement that having a substantial power to acquire territories, govern them and grant their statehood was indeed in the hands of the national government and therefore there was no way one could question the constitutionality of these decisions.[26]

In the end, France sold Louisiana to the United States in 1803. A huge portion of Louisiana's territory laid north and west of the southernmost point on the Ohio River. Missouri, which was a part of the Louisiana Purchase, wanted to join the Union in 1819. This aroused a question – should Missouri become a part of the territory of the Northwest Ordinance? Southerners and Northerners in Congress had an intense debate on this matter. Since a huge part of Missouri was located north and west of the Ohio River, Northerners implied that because of this, Missouri should be a part of the Northwest Ordinance. On the other hand, Southerners objected that, as a new part of the Union, the Northwest Ordinance

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[22] Middleton, "Repressive Legislation: Slave Codes, Northern Black Laws, and Southern Black Codes," https://doi.org/10.1093/acrefore/9780199329175.013.634.
[23] Gunderson, *Dred Scott Decision*, 10
[24] Ibid.
[25] William J. Jr. Cooper, *Liberty and Slavery: Southern Politics to 1860* (NY: Knopf, 1983), 101.
[26] Mark A. Graber, *Dred Scott and the Problem of Constitutional Evil* (Cambridge: Cambridge University Press, 2006), 118-119.

should not be applied to Missouri and the Louisiana Purchase at all. They claimed that the Northwest Ordinance should only apply to the territories which were part of the Union in 1787. Another argument, that they presented to Northerners, was that the Ohio River ended by flowing into the Mississippi River. As a result, they claimed, that only the land east of the Mississippi could be a subject of the Northwest Ordinance. The question of slavery in Missouri was later resolved by the Missouri Compromise. [27]

1.7 The Act Prohibiting Importation of Slaves

In the year 1806, Thomas Jefferson reminded Congress that on January 1, 1808, the Constitutional suspension of Congressional power on banning the slave trade will come to an end. Thomas Jefferson was known to be a denier of the slave trade, even though he was not explicitly against slavery itself. Jefferson also pointed out that any law passed by Congress before the beginning of the year 1808 would not be valid, but he encouraged Congress to prepare to resolve the issue in advance. Congress acted quickly and it intended to ban all importations of slaves starting in 1808. In March 1807, Congress passed the law, and the traders had nine months to shut down any operations they had in the United States. The Act had ten parts and its main goal was to eliminate participation in the slave trade. Starting on 1 January 1808, it was illegal to import or bring African Americans to the United States. Penalties up to $10,000 were imposed on those who participated in the trade as well as jail terms between five to ten years. Other penalties dealt with ships and purchases of imported slaves. The Act of 1807 intended to end the African slave trade but ignored the fact, that there still were thousands of African Americans who were held as slaves.[28]

1.8 The Missouri Compromise

In 1820, Congress came up with a solution to the problem of the imbalance of power between slave and free states - the Missouri Compromise. The Compromise brought a resolution in the matter of the admission of Missouri.[29] It consisted of three parts, the first one being that Missouri was acknowledged as a slave state, Maine became a free state and the third pronounced slavery to be "forever prohibited" in all the remaining territories from the Louisiana Purchase north and west of Missouri. In other words, territories north of the

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[27] Paul Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," *Hamline Law Review* 20, no. 1 (Fall 1996): 33, https://core.ac.uk/download/pdf/236155797.pdf.
[28] Paul Finkelman, "The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation," *Akron Law Review* 42, no. 2 (2009): 460-461, https://ideaexchange.uakron.edu/akronlawreview/vol42/iss2/4.
[29] Maltz, *Dred Scott and the Politics of Slavery*, 16.

36°30′ parallel. This fact was later one of the arguments for Dred's freedom, as he had been living in Illinois on which the Northwest Ordinance applied and also in the area of today's Minnesota – there the Missouri Compromise was valid.[30]

Concerning the opinions on this matter, Southerners believed that the Compromise would be in favour of the slave states. They believed so because most of the area where slavery would be prohibited was unsettled. The only inhabitants of these areas were Indians. Charles Pinckney, the Governor of South Carolina, declared the Compromise as very favourable to Southerners, as the pro-slavery statehood of Missouri, Arkansas and Florida would result in a rapid gain of six to eight new members of Southern forces in the Senate of the United States.[31]

Nevertheless, the Compromise was a tool for regulating the issue of slavery for the next quarter of a century. In the meantime, Arkansas and Michigan also became a part of the Union. In 1845, Texas joined the United States and in 1846 the United States declared war on Mexico. This was the breaking point for the issue of slavery in the territories. The United States believed in their victory and therefore in the acquisition of new territories. As a result, a new prohibition was proposed by Northern Congressmen. It was called the Wilmot Proviso and its objective was to prohibit slavery in any territory acquired from Mexico. Even though the Wilmot Proviso was not successful it caused even more sectional tensions among Americans. After the United States had won the war Congress was uncertain about what to do with the newly acquired territories.[32]

1.9 The Compromise of 1850

The Compromise of 1850 dealt with slavery and other sectional problems in the territories which were acquired in the American Mexican war, more precisely the territories of New Mexico and Utah. Other than that, the Compromise of 1850 provided the admission of California as a state, defined the boundaries between Texas and Mexico, introduced the new Fugitive Slave Law and banned the public sale of slaves in the Columbia District.[33] As far as the slavery issue goes, slavery was allowed by the Compromise of 1850 in all the

[30] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 33-34.
[31] Glover Moore, *Missouri Controversy, 1819-1821* (KY: University of Kentucky Press, 1966), 114-115.
[32] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 34.
[33] Robert R. Russel, "What Was the Compromise of 1850?" *The Journal of Southern History* 22, no. 3 (August 1956): 292, https://www.jstor.org/stable/2954547.

newly acquired territories with the addition of the territories which were located north of the 36° 30' line. California was admitted as a free state.[34]

1.9.1 The Fugitive Slave Act of 1850

To Northerners, the ban of the public sale of slaves was very pleasing but what troubled them was the Fugitive Slave Law which declared that slave fugitives had no right to have a trial, nor they could testify on their behalf. This law was to be enforced by federal marshals and if they failed to fulfil this duty heavy penalties were being imposed upon them as well as on the individuals which helped the fugitives to escape. In response to the new stricter Fugitive Slave Law, Northern states enforced their laws that dealt with personal-liberty rights. Another effect of the law was that the number of abolitionists had increased rapidly.[35]

1.9.2 The Fugitive Slave Act of 1793

The Fugitive Slave Act of 1850 was just a new version of the Fugitive Slave Act of 1793. The old law gave the right to local governments to capture the runaways and return them to the owners and to impose a penalty on the ones who helped them with their escape as well. This, however, as in 1850, resulted in defiance of many Northern states – they enforced their own laws which protected any person who was staying within the borders of that state from being escorted back to slavery. There were several cases in which the officers and others helped slaves to escape.[36]

1.10 The Kansas-Nebraska Act

In 1854 Congress passed a law called the Kansas-Nebraska Act whose main goal was to organize the territories of Kansas and Nebraska. The law repealed the Missouri Compromise for it had been applied to an area west of Missouri. This resulted in present-day Kansas, Nebraska and a part of the Dakotas, Montana, Colorado, and Wyoming areas being free of the slavery prohibition applied by the Missouri Compromise. The concept of popular sovereignty was applied in these territories, therefore the territories themselves could decide whether they would permit slavery or prohibit it.[37] Douglas A. Stephen, a Democratic candidate for the presidential post, played a huge role in the adoption of the

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[34] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 34.
[35] "Fugitive Slave Acts," Britannica – The Online Encyclopaedia, accessed February 16, 2022, https://www.britannica.com/event/Fugitive-Slave-Acts.
[36] C. W. A. David, "The Fugitive Slave Law of 1793 and its Antecedents," *The Journal of Negro History* 9, no. 1 (January 1924): 22-23, https://www.jstor.org/stable/2713433.
[37] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 34.

Kansas-Nebraska Act since he was its sponsor.[38] The principle of popular sovereignty was, according to his words, the best way to prompt these territories to be free states in the least controversial way.[39] But Northerners were not convinced and they were not keen on the idea of the partial repeal of the Missouri Compromise. As a result, a new Republican party was formed in the North.[40]

The ongoing division on the matter of popular sovereignty led up to a small civil war called "Bleeding Kansas" during the years 1854-1859.[41] Pro-slavery advocates coming from Missouri, a slave state, were starting to settle in the Kansas territory as well as the anti-slavery advocates who were on the other hand coming from the Northern states. Consequently, Kansas became very polarized, and the disagreements between Southern and Northern forces often resulted in violent conflicts or murders. Each side even formed its regulating associations and guerrilla bands. Bleeding Kansas resulted in the death of 55 people.[42]

The division of Kansas residents was even more deepened by the Lecompton Constitution in 1857 which was strictly pro-slavery. James Buchanan, the then president, was forcing it to be accepted by Kansas. In the end, the Lecompton constitution was rejected by Kansas twice and in January of 1861, the disputes were finally settled as Kansas was declared a free state.[43]

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[38] Roy F. Nichols, "The Kansas-Nebraska Act: A Century of Historiography," *The Mississippi Valley Historical Review* 43, no. 2 (September 1956): 187, https://www.jstor.org/stable/1902683.
[39] Graber, *Dred Scott and the Problem of Constitutional Evil*, 43-44.
[40] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 35.
[41] Ibid.
[42] "Bleeding Kansas," Britannica – The Online Encyclopaedia, accessed February 17, 2022, https://www.britannica.com/event/Bleeding-Kansas-United-States-history.
[43] Louise Weinberg, "Dred Scott and the Crisis of 1860," *CK Law Review* 82, no. 1 (December 2007): 123, https://scholarship.kentlaw.iit.edu/cklawreview/vol82/iss1/4/.

2 DRED SCOTT AND HIS LIFE

Dred Scott travelled a lot during his life which brought even more confusion to his case. The following chapter briefly describes his travels and his life before he decided to sue for his freedom.

Fehrenbacher, who wrote one of the most detailed books on the topic of Dred Scott, describes the nature of Dred's background in one of the book's chapters. The first known mention about Dred Scott is in 1830 when he and his owners – Peter Blow, his wife Elizabeth accompanied with their three daughters, four sons and other five slaves – crossed a well-known river port which led them to the Trans-Mississippi West, St. Louis. [44]

Peter Blow was a fifty-three-year-old man whose main motivation to move to St. Louis was that he became tired of farming and craved to try something different. Peter Blow owned many acres of soil in Virginia, his native country and just recently became one of the planters in Alabama. After his arrival, Peter started working as a proprietor of a boarding house called Jefferson Hotel. Unfortunately, his business did not last long. Unpaid bills started to accumulate and soon the venture of Jefferson Hotel became unbearable. In addition to all of this, Peter's wife Elizabeth became ill. She succumbed to her illness in the summer of 1831. Peter Blow had given up his job as a proprietor and the following year he moved with his family into another house, but apparently, he also became ill and succumbed to his illness in June of 1832.[45]

Dr John Emerson, who was also from St. Louis, was the second Dred's owner. Having successfully applied for a job as an assistant surgeon in the United States Army he reported for duty in December 1833 at Fort Armstrong in Illinois. He was accompanied by a black slave – and the slave's name was Dred Scott. At some point before Peter Blow's death, he sold one of his slaves and another one was sold after his death – which one of them was Dred Scott is unknown.[46]

But what do we really know about Dred Scott? Dred was probably with the Blows since his childhood or since his early youth. Fehrenbacher describes him as having very dark skin and being probably around five feet tall, not being able to write or read so later he came up with a special mark, which he used instead of a signature. Nothing much is known about his

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[44] Don. E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (Oxford: Oxford University Press, 2001), chap. 9, Kindle.
[45] John A. Bryan. "The Blow Family and Their Slave Dred Scott," *Missouri Historical Society Bulletin*, no. IV (1948), 223-225.
[46] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.

personality, one of the former governors of Missouri mentioned that he perceived Dred as a "very much respected Negro". Some newspapers described Dred as "illiterate but not ignorant" with a "strong common sense." Dred was purchased by John Emerson from either Peter Blow or his oldest daughter. From what is known, Dred probably had a good relationship with his former owners – Taylor Blow, Peter's son, was known as Dred's most loyal sponsor in his continuous long-run fight for freedom. There is not much evidence about Dred's relationship with his then-new owner John Emerson. Only one thing was certain – John and Dred travelled together. Emerson was serving as an assistant surgeon in the United States Army for nine years. What is interesting about him is that he must have been one of the sickest doctors who were kept in active military duty ever. Oftentimes he self-diagnosed his health problems and was often transferred to different outposts. [47]

2.1 Fort Armstrong

Fort Armstrong was Emerson's first stay as an assistant surgeon. The outpost itself was situated in Illinois and Illinois was a free Northern state. Therefore, Dred Scott might have claimed his freedom under Constitution but for some reason, he did not. He might have not known about the possibility of being emancipated and even if he did, there probably would have not been any lawyer willing to take his case. Although it was quite common in that period that lawyers would take cases concerning slaves' freedom even if they could not pay them, there were no such lawyers available in the area of Fort Armstrong. Dred might not even want to be free at that time, it is possible that he did not mind being with his master.[48]

2.2 Fort Snelling

There was an attempt by Emerson to leave the Fort Armstrong outpost because of his self-diagnosed "syphiloid disease" – but he was not successful. In 1836, he was finally transferred, due to the evacuation of Fort Armstrong, but unfortunately for him not where he wanted. His next location was Fort Snelling, this outpost was situated on the west bank of the upper Mississippi River near the later site of St. Paul, Minnesota. Back then this outpost was a part of Wisconsin Territory and later in 1838, it became a part of the Iowa Territory. The location was a part of the Louisiana Purchase territory and was included in the Missouri

[47] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.
[48] Finkelman. "The Dred Scott Case, Slavery and the Politics of Law," 35.

Territory. This resulted in, as Fehrenbacher explains, Dred Scott being taken into the area of the Missouri Compromise – an area where slavery was completely forbidden.[49]

While staying at the Fort Snelling outpost, Dred met a slave girl called Harriet Robinson. She belonged to Major Taliaferro, who was also part of the United States Army. Dr Emerson and Major Taliaferro allowed Dred and Harriet to marry each other. Taliaferro was also a justice of the peace, and he performed the wedding ceremony for Dred and Harriet. This situation was very uncommon because, in the Southern states, slaves could not legally get married. This was caused by the belief that the marriage itself would not correlate with the fact that slaves were in fact property. Another reason was that slaves were not legally eligible to make contracts and the third reason was that recognition of slave marriages could lead to some other rights such as the right of raising their own children, the refusal of testifying against their spouse etc. People, especially those in the South, also believed that slaves were childlike, had no morals and that they were in general incapable of true love and affection.[50]

No one really knows the circumstances of this wedding, but it might mean that both masters believed that Dred and Harriet had become free. This however does not add up to the fact that Emerson continued to treat the couple as slaves even after the marriage. Nevertheless, both Dred and Harriet could have taken the advantage of the fact that they were married with the consent of both masters and were living in a free state to prove that they were free but did not do so.[51] According to Vandervelde and Subramanian, Harriet herself had even better claims to freedom than Dred.[52] The two of them were, generally speaking, lucky in a way that they could get married and live together like a normal family, it was not a common occurrence in this area.[53] Later the couple had two children whose names were Eliza and Lizzie, two of their sons died in infancy.[54]

2.3 Jefferson Barracks

October 1837 was the month in which the United States Army decided to transfer Emerson once more. His next destination was Jefferson Barracks military post located in St. Louis. This time Emerson decided to leave Dred and Harriet behind because the journey

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[49] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.
[50] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 36.
[51] Ibid.
[52] Lea Vandervelde, and Sandhya Subramanian, "Mrs. Dred Scott," *The Yale Law Journal* 106, no.4 (January 1997): 1034-1035, https://www.jstor.org/stable/797149.
[53] Jack M. Balkin, and Sanford Levinson, "Thirteen Ways of Looking at Dred Scott," *CK Law Review* 82, no.1 (2007): 53, https://core.ac.uk/download/pdf/72834827.pdf.
[54] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap.9.

appeared to be quite dangerous, and he had to travel by canoe. They stayed at Fort Snelling and were rented to some soldiers, Emerson wanted to send for them later. But he did not stay at Jefferson Barracks for too long, in November 1837 the Army sent Emerson new orders – his next destination was Fort Jesup in western Louisiana.[55]

2.4 Fort Jesup

At the end of November 1837, Emerson reached Fort Jesup. There in this outpost, he found his future wife, her name was Eliza Irene Sanford. She and Emerson got married on February 6, 1838.[56]

It was probably because of his wedding that he decided to send back for his slaves at Fort Snelling because now, he had more use for them than when he was alone. A trip was arranged, it is not known how or by whom, and Dred with Harriet travelled by steamboat. In the spring of 1838, they reached Fort Jesup.[57]

When Dred and Harriet arrived in Louisiana, they had the option to sue for their freedom because for more than 20 years Lousiana had enforced the freedom of slaves who had lived in free jurisdictions. They however did not take advantage of this fact and they did not seek their freedom back then. In fact, there were many occasions in which Scotts could have sued for their freedom, but they never did, at least not before Dr Emerson's death, which might indicate that they could have been happy with him.[58]

2.5 The Calm before the storm

In September 1838, Emerson was on the move once again. He was told to go back to Fort Snelling accompanied by his wife Mrs Emerson and by his two slaves. Fehrenbacher stresses, that this was the second time Dred was taken into the territory where slavery was prohibited by the Missouri Compromise. Once they reached St. Louis, Emerson informed Surgeon General that there is a low water level, and it will probably slow the rest of the journey. And the journey did, indeed, last longer than expected, the trip took 4 weeks. During the journey, one of Dred's daughters was born on the stern wheel boat. Eliza's birth apparently occurred when the stern wheel was north of the northern boundary of Missouri – which was a free territory.[59]

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[55] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.
[56] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 37.
[57] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.
[58] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 37-38.
[59] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.

After staying for some time at Fort Snelling, new orders came in indicating that Emerson should be transferred to Florida to serve in the Seminole War. He left Fort Snelling with his wife and slaves, later left them in St. Louis and carried on without them.[60]

Emerson stayed in Florida for more than two years. The Army later decided to discharge Emerson and he returned to his civilian life in 1842. Once he got back to St. Louis, he tried to get to the Army again, but his health was slowly letting him down. A month after his daughter Henrietta's birth, he passed away at the age of forty. The night he passed away, he managed to sign his will. He declared his wife an inheritress of his estate. The two slaves were not mentioned in the will. [61] After his death, Dred and Harriet were hired out as slaves to different people. Money from the services went directly to Irene, which showed that they probably still belonged to her. Scott returned from Florida, where he served as a slave for some time, to St. Louis in March 1846.[62] It was at this point, that he tried to purchase his and his family's freedom, but unsuccessfully, Irene refused his offer. After the refusal, Dred and Harriet started to fill the freedom suits so they and their daughters could become free.[63]

[60] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.
[61] Ibid.
[62] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 38.
[63] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chap. 9.

3 SCOTT VS EMERSON

The following chapter deals with the first Dred Scott's sue for freedom. This was the first time that Dred's case had been taken to a court. However, Dred's first attempt to acquire freedom did not end well for his side as the legal system started to be embedded with political undertones.

Dred Scott and his wife Harriet filed their first petitions in April 1846. These petitions mentioned their stay in the free state of Illinois and Wisconsin territory as well as a request for permission of bringing the suit against Irene Emerson before the Missouri circuit court at St. Louis. Their request was approved by the judge and on the same day, both filed their suits.[64]

Dred and Harriet followed the standard procedures for such cases. In his complaint, Dred claimed to be a free person involuntarily held in slavery. He also proposed that Mrs Emerson had "beat, bruised and ill-treated" him and "falsely imprisoned him for twelve hours." Harriet's suit was similar to Dred's one.[65] Their suits were treated equally, so in the course of this thesis, it will be referred to both of their cases as the case of Dred Scott.

The Dred Scott case later became more of a political issue than the issue of freedom but there is no evidence proving that Dred had political intentions by filling his suit. By then, there were no proslavery or antislavery objections questioning the institution or the Missouri Compromise. Dred's case is seen as a genuine sue for freedom. The political undertones began to appear only after the case was brought to the Missouri Supreme Court.[66]

3.1 The Missouri Circuit Court

The then attorney of the Scotts, Francis B. Murdoch, believed that he had a strong case with a high chance of winning. In the previous years, similar cases were brought to the Missouri court, each of them resulting in freeing the slaves in question, either because they were working in the free territories or living in them long enough to become residents. Missouri was a perfect place for such cases in this period, as it was one of the most liberal states in the nation concerning the question of freeing a slave under such circumstances.[67]

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[64] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 10.
[65] Maltz, *Dred Scott and the Politics of Slavery*, 63.
[66] Walter Ehrlich, "Was the Dred Scott Case Valid?" *The Journal of American History* 55, no. 2 (September 1968): 257-258, https://www.jstor.org/stable/1899556.
[67] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 38-39.

This was caused by the Missouri statute which explicitly allowed slaves to sue for their freedom.[68]

In November 1846, Mrs Emerson filed her plea of not guilty. However, it was not before June 1847 that the trial finally took place. In this case, George W. Goode, a native Virginian attorney, who was strictly pro-slavery, represented Mrs Emerson.[69]

In their plea, the only two things which needed to be proven were that Dred was taken to an area where slavery was prohibited, and that Mrs Emerson held him as a slave. The fact that Dred was taken to free soil was easily provable thanks to witnesses who confirmed that he was staying at Fort Armstrong in Illinois. However, the second point was only to be proven by Samuel Russel. Samuel Russel was one of many who had hired the Scotts from Mrs Emerson. He, however, did not do the arrangement, his wife did. She apparently told him, that the money went to Irene's father – Alexander Sanford, therefore, no one could prove that Irene was the owner of the Scotts. As a result, the jury decided to return a verdict for the defendant.[70]

In July 1847, a new attorney, Samuel Mansfield Bay, had taken the case of the Scotts. He requested a new trial and this time, he filed a new lawsuit that named Russel, Sanford, and Emerson as defendants. What he intended to do was to prove that any of these three had at some point asserted a claim to Dred. At the end of July, the judge ordered the attorney to choose between the two lawsuits. Bay chose to pursue the initial suits for a retrial. After that, the initial suit was granted in December. The attorney of Mrs Emerson responded by appealing to the Missouri Supreme Court, however, the court dismissed the appeal in June 1848 because the final judgment had not been decided yet.[71]

Due to the major fire and a cholera epidemic, it had taken 2 years for the case to go to trial. This time, the judge represented to the jury that Scott was staying in the free jurisdiction and therefore, he should be free.[72] In addition, Scotts had brought a new witness – the wife of Mr Russel. She clarified her husband's testimony by saying that the Scotts had been hired from Mrs Emerson.[73] The jury was convinced, and they acknowledged the freedom of the

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[68] Lea VanderVelde, "The Dred Scott Case in Context," *Journal of Supreme Court History* 40, no. 3 (2015): 269, https://www.researchgate.net/profile/Lea-Vandervelde/publication/283951507_The_Dred_Scott_case_in_context/links/60145f0e45851517ef268ba9/The-Dred-Scott-case-in-context.pdf.
[69] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 10.
[70] Ibid.
[71] Maltz, *Dred Scott and the Politics of Slavery*, 67-68.
[72] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 39.
[73] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 10.

Scotts. Irene Emerson did not like this decision because she would lose all four slaves.[74] This was caused by the fact that if Harriet had become free her daughters would have be free as well because children of slaves would share the status of their mother.[75] The attorney of Mrs Emerson once again decided to appeal to the Missouri Supreme Court. Sometime between 1849 and 1850, Irene decided to move to Springfield, Massachusetts. Later in 1850, she married Dr Calvin C. Chaffee. Dr Chaffee was known to be more on the side of antislavery and later, he even became a Republican congressman.[76]

3.2 The Missouri Supreme Court

By the time the appeal came to the court, there had been a significant political upheaval concerning the Compromise of 1850.[77] By that time, Thomas Hart Benton, a Democratic senator, caused a split among the Democratic party, as he thought of the Compromise as too favourable to pro-slavery interests.[78] In the Missouri Supreme Court, two of the three judges, William B. Napton and James H. Birch, were strongly anti-Benton and had seen the opportunity to use the Scott vs Emerson case to illustrate their political views. John F. Ryland, the third member, informed Edward Bates, the attorney general, of their intention to overrule the previous court decisions. This would result in the rejection of Scott's claim to freedom. At first, Birch intended to take advantage of this case and declare the Missouri Compromise unconstitutional, but Napton convinced him that it is unnecessary. Ryland wanted to write a dissenting opinion at first but there was huge pressure from colleagues and in the end, he joined the opinion that Dred Scott remained a slave under the Missouri Law.[79]

After that, the opinion of the court had to be written and William Napton was chosen to do so. However, he did not manage to write it before the election of 1851. Both Napton and Birch were replaced due to the elections and Ryland was the only one who stayed. This caused the case to be reargued and in March 1852, the ruling of the Missouri Supreme Court was finally handed down. [80] On the behalf of the decision, the newly elected chief justice William Scott stated the following:

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[74] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 39.
[75] VanderVelde, "The Dred Scott Case in Context," 273.
[76] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 39-40.
[77] Maltz, *Dred Scott and the Politics of Slavery*, 68.
[78] William Meigs, *The Life of Thomas Hart Benton* (Philadelphia: J.B. Lippincott, 1904), 390-391.
[79] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 10.
[80] Maltz, *Dred Scott and the Politics of Slavery*, 68-69.

> Times are not now as they were when the former decisions on this subject were made. Since then not only individuals but States have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures, whose inevitable consequences must be the overthrow and destruction of our government. Under such circumstances it does not behoove the State of Missouri to show the least countenance to any measure which might gratify this spirit. She is willing to assume her full responsibility for the existence of slavery within her limits, nor does she seek to share or divide it with others.[81]

Thus, the Missouri Supreme Court reversed the lower court decision, resulting in Dred and Harriet still being slaves.[82]

The Scott vs Emerson decision was more about politics than Dred's freedom. This was not the last time when the growing anger of Southerners and retaliation against antislavery opinions were projected into his case.[83]

[81] *Scott v. Emerson*, 15 Mo. 576, 586 (1852).
[82] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 40.
[83] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 10.

4 SCOTT VS SANDFORD

This chapter is the central point of this thesis. It describes how the court proceeded with Dred's case and how Dred once again lost his fight for freedom.

It might have been seen as a relief for Mrs Emerson, as the long litigation finally ended after nearly six years. The case would, however, continue over the next few years.[84] It is important to note that Dred now belonged to the brother of Mrs Emerson – John F. A. Sanford. Sanford lived in New York City, but he oftentimes visited St. Louis because of his business affairs.[85] The name of the defendant was indeed *Sanford*, but it was misspelt and therefore the suit is called *Scott vs Sandford*.[86]

Dred now had a different lawyer – Roswell M. Field. His two previous lawyers were no longer eligible for defending him – one of them moved to Louisiana and the second one passed away in 1851. Field recommended to Dred to sue Sanford under the diverse-citizenship clause.[87] This meant that Scott was able to sue Sanford in the Federal court because Field claimed that Dred was a free person and therefore, he was a citizen of Missouri. However, Field had to prove that Dred was free and after that, he also had to prove that because Dred was free, he was a citizen of Missouri.[88]

On November 2, 1853, Dred's lawyer filed a suit stating that on January 1, Dred had been "assaulted and wrongfully imprisoned" along with his wife and two children by Sanford.[89] Scotts demanded $9,000 for these damages. This complaint was designed mainly to bring the suit for freedom to the Federal Court, not because Dred expected to win this money from Sanford. The only other thing Dred sued for was the money that was collected during the years he was hired out by the sheriff of St. Louis County. Dred was in a custody immediately after the litigation started and since then the sheriff had been hiring the Scotts out. Money from these transactions went to the sheriff, who was holding the money in escrow until the case was decided. The wages were slowly accumulating during the previous years and the winning side would receive a significant amount of money.[90]

The first thing to be decided was whether the Federal Court could hear the case in the first place. As a counteraction to Dred's claim that he was a citizen of Missouri, Sanford's

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[84] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 40.
[85] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[86] Maltz, *Dred Scott and the Politics of Slavery*, 70.
[87] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[88] Paul Finkelman, "Scott v. Sandford: The Court's Most Dreadful Case and How it Changed History," *CK Law Review* 82, no. 3 (2007): 24, https://scholarship.kentlaw.iit.edu/cklawreview/vol82/iss1/2.
[89] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[90] Finkelman, "Scott v. Sandford: The Court's Most Dreadful Case and How it Changed History," 24-25.

lawyers submitted a plea in abatement, questioning the federal circuit court's jurisdiction. The plea mentioned that Dred was not a citizen of Missouri because his ancestors were originally from Africa, and they were brought to the US and sold as slaves.[91]

4.1 The Federal Court

However, Sanford's plea was not successful. In April 1854, Judge Wells upheld Dred's demurrer to the plea, claiming that in the case of bringing the suit in a federal court, citizenship was based solely on the residence in the state and the legal ability to own property.[92] Wells was not against slavery but at the same time, he felt that slaves should have some rights, such as the opportunity to sue in a federal court. Consequently, Sanford had to defend himself in the federal court. In his defence, he claimed that he had just "gently laid his hands upon" the family and he had indeed "restrained them of their liberty". He argued, however, that because Scotts were his slaves "he had a right to do it".[93]

On May 15, 1854, the litigation continued. For a better understanding of the situation, an agreement on the statement of facts was made, documenting the previous travels of Dred and his family. Later that day, Field argued that Dred was a free person because of the Northwest Ordinance, the Illinois constitution, and the Missouri Compromise.[94] Garland, Sanford's attorney, chose the same line of reasoning as he performed in Scott vs Emerson – that Emerson was under military jurisdiction while staying at Fort Armstrong and Fort Snelling. This, according to Garland, meant that the civil law was not applying to Emerson, therefore the slavery prohibition was not appliable as well.[95] After that, judge Wells announced to the jury that the law was with Sanford and consequently, a verdict was returned in Sanford's favour. [96] After that, Field issued a writ of error which would take the case to the US Supreme Court.[97]

4.2 The US Supreme Court

Scott needed a suitable attorney to represent him before the Supreme Court. The case, however, did not attract much attention from the public, so it was much harder for Scott to

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[91] John S. Vishneski III, "What the Court Decided in Dred Scott v. Sandford," *The American Journal of Legal History* 32, no. 4 (October 1988): 375, http://www.jstor.com/stable/845743.
[92] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[93] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 42.
[94] Maltz, *Dred Scott and the Politics of Slavery*, 75.
[95] "Missouri's Dred Scott Case," Missouri Digital Heritage, accessed April 7, 2022, https://www.sos.mo.gov/archives/resources/africanamerican/scott/scott.asp.
[96] Maltz, *Dred Scott and the Politics of Slavery*, 75.
[97] Vishenski, "What the Court Decided in Dred Scott v. Sandford," 375.

find someone willing to represent him. In addition, he would need to find a way to pay for the fees as the Blow family no longer financially supported him. Therefore, Dred had to find someone who would take his case *pro bono*. Dred tried his luck by publishing a pamphlet that contained a brief summarization of his case and ended with an appeal for help:[98]

> I have no money to pay anybody at Washington to speak for me. My fellow-men, can any of you help me in my day of trial? Will nobody speak for me at Washington, even without hope of other reward than the blessings of a poor black man and his family? I do not know. I can only pray that some good heart will be moved by pity to do that for me which I cannot do for myself; and that if the right is on my side it may be so declared by the high court to which I have appealed.[99]

After months of no success, Field decided to write to Montgomery Blair. Blair's father was a prominent member of the Democratic party; however, he and his son opposed the Kansas-Nebraska Act which led them to a new political coalition later called the Republican party. Also, Montgomery's brother was a leader of the Benton Democrats in Missouri. In 1855, Montgomery Blair was appointed the solicitor general in the new Court of Claims. He was also a citizen of Missouri, possessing the knowledge of Missouri law necessary to handle Dred's case. Therefore, Field thought of Blair as someone professional and capable enough to represent Scott before the Supreme Court. Blair accepted the case as *pro bono* and became Dred's attorney.[100]

Sanford's attorneys were, however, also respected professionals. Henry S. Geyer had a great career in the Senate and was highly respected in Washington's legal community. He was also an expert in Missouri law which made him suitable for this case. The second attorney, Reverdy Johnson, was a former senator and attorney general. He was one of the most respected constitutional lawyers in the US and every opposing attorney was intimidated by his name. When Blair learned that these two will be his opponents, he tried to request the assistance of another lawyer, but unsuccessfully – he had to argue the case by himself.[101]

In the meantime, Supreme Court received the record of the case. Although it arrived in late 1854, the case was not heard until 1856. This was caused by the bad timing of submitting

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[98] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[99] John D. Lawson, *American State Trials Vol. 13* (St. Louis: Thomas Law Book, 1921), 243-245.
[100] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[101] Ibid.

the appeal, as in December 1854 it was the end of the term. The next term began in December 1855 and the Court was ready to hear arguments in February 1856.[102] The timing had another effect – the case would be heard during the early stages of a presidential campaign.[103] Later after the decision, Abraham Lincoln and other Republicans claimed that the delay was made on purpose to overturn the Missouri Compromise and contribute to electing a Democrat James Buchanan president.[104]

Moreover, since 1854, the effect of the Kansas-Nebraska Act had been showing. The tension created between pro-slavery and anti-slavery forces resulted in Bleeding Kansas, as described in the first chapter. The Kansas-Nebraska Act would become the main issue in the upcoming presidential election. In addition, the anti-Nebraska movement was on the verge of being a permanent political party known as the Republicans. Thus, the slavery issue was a very delicate topic in Congress, especially during this time.[105]

4.2.1 The Judges

It is also important to mention the distribution of members of the Court. Each member represented one circuit which assured that there was enough diversity among the members. This meant that there were five members representing slaveholding states and four members of antislavery states. But even though the apportionment was supposed to be balanced, the political views were not. Democrats were occupying the White House for the almost entire Jacksonian era, and it was not different in the year 1856.[106]

Southern states were represented by Peter V. Daniel from Virginia, John A. Campbell from Alabama, James M. Wayne from Georgia, and John Catron from Tennessee – all strong advocates of slavery, especially Daniel – Fehrenbacher referred to him as a "proslavery fanatic".[107]

The fifth Southern advocate was the leader of the Court – Chief Justice Roger Brooke Taney from Maryland. Appointed by Jackson, Taney had become a member of the Supreme Court in January 1835. After the previous Chief Justice John Marshall died in July 1835, Jackson decided to nominate Taney to Marshall's position and in March of 1836, Taney became the new Chief Justice. As Taney was ageing, his views on slavery became more and

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[102] Paul Finkelman, "Dred Scott v. Sandford," in *The Public Debate Over Controversial Supreme Court Decisions*, ed. Melvin I. Urofsky (Washington D.C.: CQ Press, 2006), 26.
[103] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 11.
[104] Finkelman, "Dred Scott v. Sandford", 26.
[105] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[106] Maltz, *Dred Scott and the Politics of Slavery*, 76.
[107] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 8.

more extreme. In 1818, when he was in the Maryland Senate, he was apparently more open to the plight of slaves and free blacks. But later in 1832, when he was appointed as Attorney General of the US, one of his written opinions agreed with the Negro Seamen's Act of South Carolina that free African Americans should not be considered citizens.[108]

Even though the apportionment was supposed to be equal the Northern states' representatives were greatly divided on the issue of slavery. This was caused by the fact, that the Northern Democrats stuck to the opinion of their Southern colleagues. On the other hand, there were also two non-Democratic members.[109]

Two of the Northern representatives were Democrats - Robert C. Grier from Pennsylvania and Samuel Nelson from New York.[110] The third Northern member, John McLean from New Jersey, was a former member of the Whigs and later became a Republican.[111] The only judge without a party was Benjamin R. Curtis from Massachusetts – as he supported the Compromise of 1850 he did not agree with the Republican party and at the same time, he was not aligned with the Southern Democrats.[112]

4.2.2 February 1856

In February 1856, the oral arguments finally took place and lasted for four days. There were three main issues the Supreme Court had to deal with. The first one was whether African Americans could be considered citizens of the United States, the second one questioned Congress' power to prohibit slavery in the territories and the third one dealt with the question of the Missouri Compromise being unconstitutional.[113] The political intentions were once again slowly getting into the case. Sanford became just a figure used for the intentions of the slaveholding South. Later that year, he ended up in an asylum due to mental illness.[114]

Blair first submitted a written brief questioning the lower court decision. In his brief, he did not mention Dred's stay at Fort Snelling, he focused on his residence in Illinois. Blair argued that by staying in Illinois, where slavery was forbidden, Dred had become a free man.

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[108] Maltz, *Dred Scott and the Politics of Slavery*, 76-78.
[109] Maltz, *Dred Scott and the Politics of Slavery*, 91.
[110] Ibid, 91-94.
[111] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 8.
[112] Maltz, *Dred Scott and the Politics of Slavery*, 99-100.
[113] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 43.
[114] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.

By his words, Emerson voluntarily emancipated Dred and he also mentioned that these principles were applied multiple times in previous similar cases.[115]

The problem with Blair's brief is that he did not consider Harriet and Eliza. None of them had ever stayed in Illinois which meant that the only aspect where they could become free was their stay in the area of the Missouri Compromise. As Maltz suggests, Blair might have not paid attention to the differences between these two equally treated cases.[116]

Concerning the oral arguments, the attorneys were allowed to argue for two hours at maximum, but Johnson's argumentation was extended to three hours. The main point of Johnson and Geyer was their claim that Congress did not have the power to prohibit slavery in the newly acquired territories from the Louisiana Purchase. This was a new argument in this case.[117]

The Supreme Court had much to think about and had not made much progress during the February hearing, so the case was to be dealt with in April.[118]

4.2.3 April and May 1856

In April, three conferences were going to be held. By this time, the Kansas issue was the central point of many heated discussions in Congress. The Kansas territory was becoming even more violent which meant that justices needed to be very careful with their decisions. The Court also decided that they will not discuss the question of the unconstitutionality of the Missouri Compromise as a majority of members did not think it was necessary. Moreover, the Court was evaluating if the plea of abatement should be reviewed at all. Members of the Court were divided on this issue, four of them – Taney, Wayne, Daniel, and Curtis - thought that it should be reviewed and the other four – McLean, Catron, Grier, and Campbell - did not. The ninth member, Nelson, was not sure but he was leaning more towards the first group. [119]

In May, the Court decided to reargue the case in the next term to give Nelson some time to decide. There were also two main questions to which the Court wanted to give special attention. The first one was the issue of the plea in abatement and the second one was the question if Dred could be considered a citizen for the purposes of diversity jurisdiction.[120]

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[115] Maltz, *Dred Scott and the Politics of Slavery*, 103.
[116] Ibid.
[117] Maltz, *Dred Scott and the Politics of Slavery*, 105.
[118] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[119] Ibid.
[120] Maltz, *Dred Scott and the Politics of Slavery*, 107.

4.2.4 The Rising Tension

Before the case was reargued in December, the sectional tension was once again getting stronger. The speech of a Republican senator Charles Sumner in the Senate about Kansas caused great upheaval and was followed by a physical assault by a Democratic Congressman two days later. This invoked a furious response from Northerners. In addition, the violence in Kansas was getting worse as the proslavery forces attacked Lawrence and the Pottawatomie Creek experienced cold-blooded murders.[121]

Another important event was the election of Democrat James Buchanan as president. Even though Buchanan won 45% of the popular vote and 174 electoral votes, John C. Frémont, a Republican, was not far behind with 33% of the popular vote and 114 electoral votes.[122]

The situation worsened even more when the soon-former president Franklin Pierce declared the Missouri Compromise "a monument of error" and "a dead letter in law" in his annual message to Congress, making the Republicans furious and causing many disputes among the Congress members.[123]

Thanks to these circumstances, Dred Scott's case now received more attention.

4.2.5 December 1856

Blair thought at first that he would still need to handle the case by himself, but before the case was going to be heard, George T. Curtis offered his limited assistance. George T. Curtis was a brother of Benjamin R. Curtis, one of the nine justices. It is needed to say, that George was no typical antislavery agent as he supported the Fugitive Slave Act in Massachusetts.[124]

Starting on December 15, the hearing was four days long and was approximately twelve hours long in total. On the first day, Blair started the oral arguments with his three-hour-long speech. Geyer and Johnson were presenting their arguments during the next two days and Blair and Curtis were closing the four-day run.[125] Johnson and Curtis gained most of the attention probably because they focused more on the territorial question. Some Republicans

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[121] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[122] "United States presidential election of 1856," Britannica – The Online Encyclopaedia, accessed March 24, 2022, https://www.britannica.com/event/United-States-presidential-election-of-1856.
[123] Maltz, *Dred Scott and the Politics of Slavery*, 109.
[124] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[125] Maltz, *Dred Scott and the Politics of Slavery*, 109.

pointed out that Blair should have given more time to Curtis, as he only let him speak for one hour, leaving three hours for himself.[126]

The question of whether the plea in abatement was properly before the court received minimal attention. While Blair argued that by pleading over to the merits, Sanford had waived his right to appeal to jurisdiction, Geyer pointed out that the court had limited power of federal jurisdiction in civil suits. If the court decided in Blair's favour, the decision by Judge Wells that Dred had a right to bring the suit would be acknowledged and the court could proceed to the question of Dred's freedom, being able to completely skip the question of black citizenship.[127]

Blair based his argument on the fact, that state and federal law oftentimes used the word "citizen" to refer to "(free) inhabitant". He also mentioned the fourth Article of Confederation, claiming that "free inhabitants" had the same privileges in the other states. In fact, Blair proceeded with the same line of reasoning as judge Wells – the concept of limited citizenship.[128]

Geyer responded to Blair's arguments by asserting that the parties in a federal suit have to prove that they are citizens of the nation and the state. Geyer, citing Article 3, Section 2 – the diverse-citizenship clause, continued that a citizen is someone who is born a citizen or had acquired this status by naturalization. Dred was, however, born a slave and had never been naturalized. Therefore, he argued that even if Dred had become a free man during his travels, it would not make him a citizen of the United States. Geyer's reasoning focused mainly on federal citizenship rather than state citizenship and Taney would later adopt this line of reasoning.[129]

The Southern members of the Court wanted Taney to side with Geyer and rule that African Americans could not be citizens of the United States. But if this would happen, the case would be dismissed immediately, leaving Taney no opportunity to question the constitutionality of the Missouri Compromise.[130] This was the main point with which the proslavery members wanted to deal now. As we know, the slavery issue was the source of political tensions and ruling the Compromise unconstitutional would end the slavery

[126] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[127] Ibid.
[128] Ibid.
[129] Ibid.
[130] Finkelman, "Scott v. Sandford: The Court's Most Dreadful Case and How it Changed History," 35.

territorial question in favour of the South. If this had happened all territories would have been open to slavery.[131]

Blair and Geyer were also the ones who dealt with the question of the emancipation of Dred by staying in Illinois. Geyer argued that Emerson was not a resident of the state at that time, but rather a sojourner as he was an army officer staying at a military installation. This meant that Emerson had not lost ownership over Dred. Geyer also pointed out that after returning to Missouri, Dred's status was determined by the Missouri law, therefore it did not matter if he became free by the Illinois law.[132]

Blair pointed out that the general federal law should be applied to Scott vs Sanford, and he stated that the previous decision of the Missouri Supreme Court was not consistent with the Missouri case law.[133] He continued that the Missouri Supreme Court decision had been made mainly for political reasons and that it had been dealing with the slavery law as a forfeiture of property – which was wrong according to Blair. [134]

After that, he responded to the sojourner argument by saying that there was not enough evidence that Emerson had claimed his residence elsewhere while staying at the military post. In addition, in one of its previous cases, the Court decided that a domicile is determined by the place where the person lives unless disproven.[135] Blair argued that therefore, there is no legal basis for Dred to lose his freedom by returning to Missouri as Emerson had voluntarily brought him to both Illinois and Wisconsin Territory – states where slavery was forbidden.[136]

This time, Blair was careful to distinguish between Dred's case and those of Harriet and Eliza. Harriet and Eliza could claim their freedom only on the fact that they had been staying in the area of the Missouri Compromise. Blair also observed that Eliza was not even a slave as she was born in a free jurisdiction.[137]

Geyer and Johnson decided to rely on Dred's stay at Fort Snelling. They declared that Dred was still a slave during his stay at this outpost because the law prohibiting slavery in this territory was unconstitutional. Thus, the desired question of the unconstitutionality of the Missouri Compromise was finally aroused. In the previous hearings, it did not receive

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[131] Finkelman, "The Dred Scott Case, Slavery, and the Politics of Law," 47-48.
[132] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[133] Maltz, *Dred Scott and the Politics of Slavery*, 112.
[134] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[135] Ibid.
[136] Maltz, *Dred Scott and the Politics of Slavery*, 113.
[137] Ibid, 112.

much attention but now it became the main topic. Dred's innocent fight for freedom once again became a centre of political debate.[138]

Geyer and Johnson addressed the Territory Clause, claiming that Congress only had the power to acquire and dispose of the land, not to determine the rights of citizens living in the territories. Even though they acknowledged that Congress had the power to institute temporary governments to administer territories until they became states, they also argued that this power could not prohibit slavery in those territories because it was not necessary for the maintenance of order within the territories.[139]

Blair and Curtis responded by saying that Congress had the power to dispose and make all needful rules and regulations in the territories, including the right to regulate slavery and therefore ban it. Blair also said that in the previous years, Southerners were never willing to accept the Missouri Compromise and now, after thirty years the Missouri had become a state, they were trying to oppose the bargain by claiming that the Compromise was unconstitutional.[140]

4.3 The Decision

After the December hearing, the case started to appear in the national press. While many newspapers praised Curtis' presentation, the rest of the attorneys met with mixed opinions. The press thought that the decision will be in favour of Sanford and Democratic newspapers were full of hope to resolve the slavery issue.[141] The final decision was delivered in March 1857, and it had to deal with four major questions.

The first question was whether the plea of abatement was properly before the court. The Court members were deeply divided on this question. However, four justices produced an affirmative answer – Taney, Wayne, Daniel, and Curtis. This meant that the plea of abatement was properly before the Court, and it could be reviewed by the Supreme Court.[142]

Only three members decided that an African American could not be a citizen of the United States – Taney, Wayne, and Daniel. Taney, however, presented this statement in his ruling and declared that no African American could be a US citizen, which made his pronouncement extrajudicial, as it was not decided by the majority of the Court. At the same time, it contradicted the previous question – if an African American could not be a citizen

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[138] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 12.
[139] Maltz, *Dred Scott and the Politics of Slavery*, 114.
[140] Ibid, 113-114.
[141] Ibid, 114.
[142] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 14.

he could not legally sue in the Federal Court and the plea of abatement was not valid.[143] Taney claimed that African Americans were considered by Framers of the Constitution "as a subordinate and inferior class of beings" that had "no rights or privileges".[144] What Taney did not mention was that in Missouri, African Americans were free by residence and were able to acquire a lawyer in cases concerning freedom. Taney's interpretation that African Americans had no rights would imply that no African Americans could ever sue in the federal courts.[145] Taney also assumed that there were two kinds of citizenship created by the Constitution – state and federal. He said that even though states were eligible to make anyone a citizen, federal citizenship was meant only for white people and that he couldn't imagine that the Southern Framers would accept the Constitution if they knew that African Americans were meant to be citizens.[146] In addition, Taney claimed that any state laws dealing with African American state citizenship after 1789 were invalid.[147]

Six members declared the Missouri Compromise unconstitutional – Taney, Wayne, Grier, Daniel, Campbell, and Catron.[148] Taney announced that Congress had the power to set up a basic structure of government in territories but did not have the power to ban slavery in them. If it had, it would treat territories like colonies. Taney also argued that Congress did not have the power to ban slavery because slaves were private property and therefore it would deprive citizens of their right to own property. He addressed this as a violation of the Fifth Amendment.[149] He then added that the Territory Clause was appliable only to states which were already acquired or owned by the United States in 1789 and not those acquired later on.[150]

Seven members claimed that Dred's status was determined by the Missouri law meaning that Dred was still a slave – Taney, Wayne, Nelson, Grier, Daniel, Campbell, and Catron.[151] On this matter, Taney did not write much, instead, he let Nelson write a detailed analysis. In Taney's brief opinion, it was mentioned that Court had to respect the decision of the Missouri Supreme Court – therefore Dred and his family were still slaves and were not citizens.

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[143] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 14.
[144] Daniel A. Farber, "A Fatal Loss of Balance: Dred Scott Revisited", *Pepperdine Law Review* 39, no. 13 (2011-2013): 24, https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1348&context=plr.
[145] VanderVelve, "The Dred Scott Case in Context," 276.
[146] Paul Finkelman, "Was Dred Scott Correctly Decided? An 'Expert Report' for the Defendant," *Lewis and Clark Law Review* 12, no. 4 (2008): 1231, https://law.lclark.edu/live/files/9510-lcb124art10finkelmanpdf.
[147] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 15.
[148] Ibid, chapter 14.
[149] Finkelman, "Was Dred Scott Correctly Decided? An 'Expert Report' for the Defendant," 1231.
[150] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 16.
[151] Ibid, chapter 14.

Consequently, Taney concluded that Scotts had no right to sue in the federal court in the first place and so the case should have been dismissed.[152]

Nelson's more thorough analysis mentioned that Missouri is a sovereign state and therefore it can deal with the slavery question by itself. He also argued that consequently, Congress has no power to regulate slavery in a state.[153] Nelson, however, was not as interested in the political questions as Taney so in his opinion, he focused primarily on the facts of the case and completely omitted the citizenship question and the Missouri Compromise question. When dealing with the question of Dred's status after returning to Illinois, Nelson described that Scott v. Emerson decision was consistent with the Missouri Law and that the Missouri Supreme Court had almost always[154], except for Rachel v. Walker[155], use the reattachment doctrine – that a slave had become free by travelling to a free state. However, it was possible only if the master had established a domicile in such state. Therefore, Dred was still a slave.[156]

4.4 Voices of the Court

Members of the Court could write opinions that reflected their views on each matter and each of these opinions demonstrated the ubiquitous sectionalism. However, Wayne was the only Southerner who supported Taney in all his views. At first, Nelson was the one to write the opinion of the Court, but Wayne proposed that Taney should be the one to do so. As mentioned above, Nelson avoided the two questions which were the most important for Taney and therefore, for Wayne as well – this might have been the reason for Wayne's proposal.[157]

4.4.1 Concurring Opinions

Both Wayne and Grier did not write any opinion and simply concurred with Nelson's or Taney's opinion. Wayne just briefly mentioned how appropriate it is to discuss the constitutionality of the Missouri Compromise.[158]

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[152] Maltz, *Dred Scott and the Politics of Slavery*, 123.
[153] Ibid, 124.
[154] "Samuel Nelson," Britannica – The Online Encyclopaedia, accessed April 4, 2022, https://www.britannica.com/biography/Samuel-Nelson.
[155] Maltz, Dred Scott and the Politics of Slavery, 124.
[156] "Samuel Nelson," Britannica – The Online Encyclopaedia, accessed April 4, 2022, https://www.britannica.com/biography/Samuel-Nelson.
[157] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 17.
[158] Maltz, Dred Scott and the Politics of Slavery, 124.

The other three Southern Justices each filled their opinions. Daniel supported Taney's opinion on the plea of abatement and was the only one of them who chose to discuss African American citizenship. He came to the same conclusion as Taney did but through different reasoning – he wrote that slaves were "strictly property" and therefore could not be citizens. In his opinion, he also referred to Dred's stay in Illinois as temporary – therefore Dred was still a slave. [159]

Catron disagreed with Taney on the matter of African American citizenship and unofficially, he said that Taney's opinion was dictum,[160] meaning that it was not a necessary passage to reach the decision.[161] Catron, however, agreed with most of the justices on the matter of Scott's slavery and he also thought that the Missouri Compromise is unconstitutional. One other thing he did not agree with Taney, was his interpretation of congressional power over the territories.[162]

Campbell also concurred in the main decision of the Court but chose to write his own separate opinion. Campbell agreed that Congress had no power to regulate slavery in the states.[163] The other thing he agreed on was that Dred was still a slave. Maltz suggests, that Campbell seemed to concede that if Emerson had established his domicile in a free state, Dred could have been emancipated because of the antislavery law of that state. Then he pointed out that there was no evidence that Emerson had established a domicile in any of the two states – Illinois or Minnesota. He added, that because the Missouri Compromise was unconstitutional, there was no doubt that Dred remained a slave.[164]

4.4.2 Dissenting Opinions

There were only two justices who chose to dissent – McLean and Curtis and both of them wrote two of the three longest opinions. In general, Curtis' opinion was more polished and thorough, on the other hand, McLean's opinion was not taken as seriously by historians.[165] Their opinions were, however, quite different. McLean, aspiring to be a

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[159] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 17.
[160] Ibid.
[161] "Obiter Dictum," Britannica – The Online Encyclopaedia, accessed April 4, 2022, https://www.britannica.com/topic/obiter-dictum.
[162] Austin Allen, "Jacksonian Jurisprudence and the Obscurity of Justice John Catron," *Vanderbilt Law Review* 62, no. 2 (2009): 512-513, https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1458&context=vlr.
[163] E. I. McCormac, "Justice Campbell and the Dred Scott Decision," *The Mississippi Valley Historical Review* 19, no. 4 (1933): 566, https://www.jstor.org/stable/pdf/1897808.pdf?refreqid=excelsior%3Aff5fb5a4432b0d9558de2c2bfc5f1936&ab_segments=&origin=.
[164] Maltz, Dred Scott and the Politics of Slavery, 126-127.
[165] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 17.

candidate for president since 1832,[166] chose the wording in his opinion to be the most appealing to the Republican party. His opinion was therefore a mixture of political rhetoric and legal analysis.[167]

McLean and Curtis disagreed with each other on the matter of plea of abatement. McLean believed that it was not properly before the Court and he seemed to agree with Judge Wells' ruling that "any free person whose domicile was in a state, was a citizen of that state for the purposes of suing in the Federal court." When dealing with African American citizenship, McLean reminded that inhabitants of Louisiana, Florida, and the Mexican Cession had all been guaranteed citizenship in the treaties of acquisition, no matter what race they were.[168] He devoted many pages of his opinion to the slavery issue, claiming that at the time the Constitution was drafted, the Framers believed that slavery will gradually diminish. He then continued by saying that he believes that Congress has no power granted by the Constitution to enslave black or white men. At the end of this passage, he wrote that "if Congress may establish a Territorial Government in the exercise of its discretion, it is a clear principle that a court cannot control that discretion" and he continued by declaring that he does not see why the Missouri Compromise would be unconstitutional as it has no purpose to forfeit property. He ended by saying that the only purpose of the Compromise is the prohibition of slavery. The last question he commented on was Dred's status after returning from Illinois. McLean claimed that Emerson had acquired a domicile in Illinois and therefore, Scott became free. Moreover, he argued that Missouri courts were bound to respect the change of status.[169]

Curtis, on the other hand, agreed with Taney on the matter of plea of abatement. Concerning the diverse citizenship clause, Curtis believed that citizenship should not be restricted by race. He argued that if a person was born a citizen in a state, he was also a citizen of the United States and he pointed out that at the time the Constitution was drafted, free African Americans were citizens in some states. After that, he proceeded by writing, that the jurisdictional objection that had been raised in the lower court, did not rule out the possibility that Dred could have been born in a free state a therefore he could be viewed as a citizen. Curtis then continued with the Missouri Compromise question. As mentioned earlier, Dred was able to claim his freedom from his stay in Illinois, but Harriet's case was

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[166] "John McLean" Britannica – The Online Encyclopaedia, accessed April 5, 2022, https://www.britannica.com/biography/John-McLean.
[167] Maltz, Dred Scott and the Politics of Slavery, 129-130.
[168] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 17.
[169] Maltz, Dred Scott and the Politics of Slavery, 129-132.

dependent on the Missouri Compromise. Therefore, in her case, it was crucial to prove that the Missouri Compromise was constitutional.[170] Curtis argued that Congress had the power to govern territories, granted by the Territories Clause.[171] The assumption made by Taney, that the Territories Clause applied only to the 1789 territories, puzzled Curtis and he noted that Congress had the power to hold and acquire territory and could make all the necessary rules for governing that territory, including the prohibition on slavery. He also pointed out, that Congress had been doing it in this way since founding the Nation, including actions like the Louisiana Purchase. Either in the territories carved out of the Louisiana Purchase or other acquired territories, Congress enacted various laws or ordinances including those regulating slavery. Moreover, Congress explicitly forbid slavery in at least eight states. Curtis then addressed the Fifth Amendment's argument, claiming that a slave is not property. Instead, he noted that slavery is "a right existing by positive law".[172] Lastly, Curtis dealt with Dred's status after returning to Missouri. He focused on Dred's stay in the Wisconsin Territory and pointed out, that in this territory, slavery was completely forbidden and therefore Scott had become free by then. The main point was, however, if Missouri could recognize the change of status. Curtis chose a strategy focused on Dred and Harriet's marriage. Arguing that their marriage was valid in the Wisconsin Territory and that Emerson wilfully emancipated Scott at that point, Curtis claimed, that Missouri would violate the validity of the marriage contract. He then stated that if Missouri had still considered Dred a slave it would have been inconsistent with international law and would have impaired the obligation of the marriage contract.[173]

Nevertheless, the two dissenting opinions were not enough for Scott's family to acquire their long-desired freedom. Taney's Court decided by a vote 7-2 to reject Dred's claim. But this decision was something more than an ordinary case for seeking freedom, it caused even more tension in the United States and the consequences did not take long to make their way into everyday life.

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[170] Earl M. Maltz, "The Last Angry Man: Benjamin Robbins Curtis and the Dred Scott Case," *CK Law Review* 82, no. 1 (2006): 268-269, https://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=3577&context=cklawreview.

[171] Stuart A. Streichler, "Justice Curtis's Dissent in the Dred Scott Case: An Interpretive Study," *Hastings Constitutional Law Quarterly* 24, no. 2 (1997): 536, https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1628&context=hastings_constitutional_law_quaterly.

[172] Stephen Breyer, "Guardian of the Constitution: The Counter Example of Dred Scott," Supreme Court Historical Society Annual Lecture (Supreme Court Historical Society, June 1, 2009).

[173] Maltz, Dred Scott and the Politics of Slavery, 137-138.

5 CONFUSION AND ANGER

This chapter deals with the consequences and influences of the decision. It also examines the opinions and effects of the political parties.

After the decision was announced, people were slowly losing interest in the Scott family. John Sanford probably never learned that he had won the case, as he ended up in the mental institution around the time when the case was being decided. The money, which was most probably the wages earned by the Scotts when they were working for the sheriff during the case, was transferred to Mrs Emerson – now Mrs Chaffee. Consequently, Mrs Chaffee's husband – Clifford Chaffee, now became an owner of the most famous slave in the United States, which was rather embarrassing for him, as he was a Republican Congressman.[174] As a result, the Emersons decided to issue a quitclaim and the ownership of the slaves was transferred to the Blows. Taylor Blow then decided to manumit the entire Scott family. Just like that, after many years of trying, the family finally became free.[175] However, on September 17, 1858, Dred Scott died of tuberculosis.[176] His family continued living together and survived the Civil War. Harriet and Eliza were working as laundresses and later, Lizzie got married and had children.[177]

5.1 Taney vs Curtis

The oral opinions were summarized in the newspapers on March 6, 1857, and a few days later, the two dissenting copies of the opinions were released as well.[178] Having the advantage of possessing the documentation ahead of the proponents, the opponents of the decision could start the propaganda battle. The reason why Taney's opinion was not released immediately after the decision was that he was revising it. Taney realized that Curtis' opinion had many points that he had to disprove, so he decided to strengthen his arguments. Taney, however, denied that he had altered his opinion but later, he told Curtis that he had revised the majority opinion by adding more proofs. Curtis observed that in the official copy, eighteen pages had been added. These were not in the majority opinion delivered when the decision was being announced. The rumours that Taney had been revising his opinions, got to Curtis at the end of March. Curtis, therefore, decided to write to the clerk of the Supreme Court – William T. Carroll. He asked him for a copy of Taney's opinion as soon as it was

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[174] VanderVelde, "The Dred Scott Case in Context," 276.
[175] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 18.
[176] Maltz, Dred Scott and the Politics of Slavery, 140.
[177] VanderVelde, "The Dred Scott Case in Context," 276.
[178] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 18.

printed. Carroll responded to Curtis on April 6, claiming that he had been told by Taney not to give anyone a copy of his opinion before releasing it in official reports. A few days later, Curtis wrote to Carroll again, claiming that this certainly did not apply to him. Carroll then wrote that Taney confirmed that Curtis should not receive any copy of his opinion. After that, Curtis and Taney exchanged a few angry letters. Taney wrote to him that he should have asked the other justices for permission before releasing it to the press[179], claiming that he did it because he wanted to discredit the judicial decision. Their dispute made Curtis so uncomfortable, that in September, he resigned from the Court.[180]

5.2 Sensational News

The case received wide coverage from various newspapers. The fact, that the official dissenting opinions were released earlier than the concurring opinions, provided antislavery forces with much-needed information.

5.2.1 The Northern Newspapers

Northern newspapers were therefore the first ones to react to the decision. Northerners were angry that the decision took all the protection from slavery expansion from them. Naturally, most of the Northern newspapers were against the decision, oftentimes claiming that the decision was simply a part of the slave power conspiracy.[181]

The *New York Daily Tribune* declared the decision was "wicked" and "abominable" as well as claiming that Taney was a "cunning chief" whose "collation of statements and shallow sophistries" demonstrated a "detestable hypocrisy" along with "mean and skulking cowardice". The *Independent* also did not hesitate to criticise the decision. It referred to the decision as "a wilful perversion, for a particular purpose" and boldly claimed that "if the people obey this decision, they disobey God." The Chicago *Tribune* wrote: "We scarcely know how to express our detestation of [*Dred Scott's*] inhuman dicta, or to fathom the wicked consequences which may flow from it."[182]

It is also important to mention that not all Northerners were completely against the decision. Northern Democrats saw the decision as a solution to sectionalism. The *New York Journal of Commerce* published an article with the following excerpt referring to the

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[179] Maltz, Dred Scott and the Politics of Slavery, 140-141.
[180] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 13.
[181] Alix Oswald, "The Reaction to the Dred Scott Decision," *Voces Novae* 4, no. 1 (2018): 172, https://digitalcommons.chapman.edu/vocesnovae/vol4/iss1/9.
[182] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 18.

decision as an "authoritative and final settlement of grievous sectional issues" and declared it to be "almost the greatest political boon which has been vouchsafed to us since the foundation of the Republic."[183]

5.2.2 The Southern Newspapers

Southerners, on the other hand, were satisfied with the decision. To them, Taney's ruling served as a strike against their Republican rivals. Also, not many Southern newspapers examined the case from a legal point of view.[184] At the same time, the decision made Democrats feel that the long-lasting sectionalism will finally be over. The *Richmond Daily Enquirer* wrote that "sectionalism has been rebuked, and abolitionism has been staggered and stunned." The *New Orleans Picayune* cheered that the decision "puts the whole basis of the Black Republican organization under the ban of law, stamps its designs as hostile to the Constitution, and forms the basis upon which all conservative men of the Union can unite for the maintenance of the Constitution as it is and the Union as it is."[185]

5.3 Effects on the Legislatures

As a direct result of the decision, Northern states like New York, Ohio, Hampshire, Massachusetts, and Pennsylvania came up with new legislations, explicitly defying the decision. Ohio, for instance, introduced a bill that would prevent slavery and kidnapping within its borders. New York took a similar action as it considered the decision an attack on its sovereignty. New Hampshire went even further and presented a resolution that would give "all races and colours the same rights as white citizens."[186]

Southern states' response to the Northern adjustments was, of course, full of critique. In their newspapers, they claimed that this behaviour was predictable.[187]

5.4 Effects on the Parties

The problem of the Democratic party was, however, between their Northern and Southern members. While Northern Democrats supported the doctrine of popular sovereignty, Southern Democrats were advocates of the "non-intervention" doctrine, which

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[183] Maltz, *Dred Scott and the Politics of Slavery*, 142.
[184] Oswald, "The Reaction to the Dred Scott Decision," 175-177.
[185] Maltz, *Dred Scott and the Politics of Slavery*, 142-143.
[186] Oswald, "The Reaction to the Dred Scott Decision," 180-181.
[187] Ibid, 181.

would allow slavery in all territories. The Dred Scott decision generated an outcome more suitable for Southern Democrats.[188]

The decision was, of course, a potential threat to the Republican party. The party had to be careful with its reaction to the decision as it could have ruined their image in the North. The issue was that Republicans did not want to be associated with radical abolitionists.[189] Democrats tried to frame Republicans as much as possible, but the Republican Party used the decision to their advantage, later resulting in Lincoln becoming the first Republican president.[190]

5.5 Lincoln vs Douglas

The decision was oftentimes mentioned in the well-known Lincoln-Douglas debates. In these series of speeches, Illinois candidates for a Senate seat, a Democrat Stephen Douglas, and a Republican Abraham Lincoln, were continuously responding to each other's attacks. In his speeches, Lincoln often used the decision and attacked Douglas by claiming that he was a part of the slave power conspiracy. Douglas, on the other hand, thought of Lincoln as an abolitionist whose main intention was to give African Americans the same rights as whites had.[191]

Before the debates began in 1858, Douglas expressed his view on the decision in 1857, praising the doctrine of popular sovereignty. He also added that he completely agreed with Taney's ruling that free African Americans could not be citizens of the United States and that African Americans were regarded as inferior to whites.[192]

At the Republican convention on 16 June 1858, Lincoln delivered his first and one of the most famous speeches – the House divided speech. He declared that "a house divided against itself cannot stand", meaning that the United States could not continue being "half slave and half free." He continued by saying that eventually, it must "become all one thing or all the other", and that "either the opponents of slavery will arrest the further spread of it… or its advocates will push it forward, till it shall become alike lawful in all the States – old as well as new, North as well as South." Lincoln then pointed out that the Kansas-Nebraska Act and the Dred Scott decision worked in favour of the "all slave" nation.[193]

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[188] Maltz, *Dred Scott and the Politics of Slavery*, 143-144.
[189] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 18.
[190] Oswald, "The Reaction to the Dred Scott Decision," 187.
[191] Oswald, "The Reaction to the Dred Scott Decision," 187.
[192] Maltz, *Dred Scott and the Politics of Slavery*, 149.
[193] Carl Schurz, *Abraham Lincoln: The Gettysburg speech and other papers by Abraham Lincoln (Riverside literature series)* (Boston: Houghton Mifflin, 1919), 34-35.

Douglas was the framer of the Kansas-Nebraska Bill and thus Lincoln concluded that he was a part of the slave power conspiracy. Lincoln also pointed out that the Dred Scott decision was delayed and announced after the presidential election which also contributed to his slave power conspiracy theory.[194] During his next speeches, Lincoln predicted that the Court's next ruling would make it unconstitutional to prohibit slavery in any state and therefore, completely nationalize slavery in the United States.[195]

The debate in Freeport, Illinois on August 27, 1858, was the most notable one. In this debate, Lincoln asked Douglas four questions and two of them were specifically connected to the Dred Scott decision. He asked in his second question, "Can the people of a United States Territory, in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a State Constitution?" Douglas' answer to this question was corresponding with his opinion in 1857.[196] However, the most interesting one was the third question, later known as the "Freeport question".[197] In this question, Lincoln asked, "If the Supreme Court of the United States shall decide that States cannot exclude slavery from their limits, are you in favor of acquiescing in, adopting and following such decision as a rule of political action?" In this case, Douglas did not answer the question. Instead, he responded that Lincoln "casts an imputation upon the Supreme Court, by supposing that they would violate the Constitution of the United States… It would be an act of treason that no man on the bench could ever descend to."[198]

In the end, Douglas won the Senate elections but a few years later, Lincoln became the first Republican president of the United States. In his inaugural speech, Lincoln declared that the Dred Scott case was only an ordinary litigation and that such case should not be eligible to resolve national policy. He added that there is no need to blame the Court for the decision as they had to decide one way or another. He ended by saying that because it was just an ordinary litigation, the case should be binding only to the involved parties.[199]

5.6 The Lecompton Constitution and Civil War

Before the case was decided, the Kansas issue was getting worse. The state of Kansas was deciding whether it should enter the Union as a free or slave state. Even though there

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[194] Oswald, "The Reaction to the Dred Scott Decision," 188.
[195] Maltz, *Dred Scott and the Politics of Slavery*, 151.
[196] Ibid, 151.
[197] Oswald, "The Reaction to the Dred Scott Decision," 188.
[198] Maltz, *Dred Scott and the Politics of Slavery*, 151.
[199] Weinberg, "Dred Scott and the Crisis of 1860," 121.

were more anti-slavery forces than pro-slavery, the anti-slavery forces decided not to participate in a referendum, resulting in the win of the pro-slavery advocates.[200] They proposed the Lecompton Constitution which protected slaveholding and excluded free African Americans from the bill of rights. Even though the Lecompton Constitution was later rejected, it contributed to the ongoing sectional crisis.[201]

After the decision was announced, Northern preferences were overwhelmingly Republican and consequently, Abraham Lincoln was elected in the presidential campaign in 1860, representing Northern anti-slavery views. After the election, Southern states protested by seceding from the Union, resulting in even more sectional tension. The continuing tension then resulted in the well-known Civil War between the Union in the North and the Confederate states in the South which took place from 1861 to 1865.[202]

We can conclude that the Dred Scott decision was not the direct cause of the Civil War, but it influenced two major events leading to it. The first one was the new division between Northern and Southern Democrats. While Northern Democrats did not want slavery in the territories, Southern Democrats held the opposite view. The dispute was, of course, mainly influenced by the Lecompton Constitution but the Dred Scott decision influenced it as well.[203] Fehrenbacher wrote, "And so the Democratic Party came to its breaking point over the issue of slavery in the territories, as affected by the Dred Scott decision – an issue that had lost much of its practical significance while becoming ever more intensely charged with symbolic meaning and emotional force." He also pointed out that the decision strengthened the fear of many northerners that the pro-slavery forces' intentions were going to extend to the federal territories and maybe even into the free states. Another point is that Republicans' attack on the decision proved that they were not easily giving up to the slaveholding advocates.[204]

The second one is the election of Abraham Lincoln. As stated above, Lincoln's speeches during his senatorial campaign often mentioned the Dred Scott decision. With these speeches, he gained the support of many Americans and therefore, was later elected as president. This caused the South to secede from the Union as they knew that Lincoln would

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[200] Oswald, "The Reaction to the Dred Scott Decision," 190.
[201] "Lecompton Constitution", Britannica – The Online Encyclopaedia, accessed April 17, 2022, https://www.britannica.com/event/Lecompton-Constitution.
[202] Oswald, "The Reaction to the Dred Scott Decision," 191.
[203] Ibid.
[204] Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics*, chapter 22.

not address their interest and after that, the Civil War took place. Therefore, we can definitely see some influence of the Dred Scott decision in Lincoln's election.[205]

5.7 Echoes of the Past

On June 19, 1862, legislation ending slavery in the territories was signed by Lincoln. In the end, Taney's ruling that Congress had no power to regulate slavery was ignored and after six months, Lincoln issued the Emancipation Proclamation. In 1865, the Thirteenth Amendment abolished slavery completely.[206]

In 2015, Taney's name was brought up in his home state Maryland. The all-white board of aldermen voted to remove Taney's bust and place it somewhere in a museum. However, before it could be moved somewhere, someone dumped a bucket of red paint on Taney's bronze head. After this incident, nobody wanted it.[207] In 2017, the statue was relocated to a nearby cemetery.[208] It is somehow ironic how the all-white board decided the fate of Taney's monument - the fate of a man who put the whites first and yet, centuries later, he was despised by them.

The unfortunate death of George Floyd brought up the Dred Scott decision once again. Taney's statue in the U.S. Capitol was removed in 2020 during the protest for George Floyd's justice.[209] Thus, Taney's statue became a symbol of past errors.

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[205] Oswald, "The Reaction to the Dred Scott Decision," 192.
[206] Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," 60.
[207] Sheryl Gay Stolberg, "He Denied Blacks Citizenship. Now a City Is Deciding His Statue's Fate," *The New York Times*, September 4, 2016, https://www.nytimes.com/2016/09/05/us/he-denied-blacks-citizenship-now-a-city-is-deciding-his-statues-fate.html.
[208] Melissa Chan, "Maryland City to Remove Statue of Supreme Court Justice Who Said Slaves Weren't Citizens," *Time*, March 16, 2017, https://time.com/4704130/supreme-court-justice-taney-bust-city-hall-maryland/.
[209] Josh Kurtz, "House Votes to Remove Taney Bust From U.S. Capitol, Replace it With Thurgood Marshall," *Maryland Matters*, July 23, 2020, https://www.marylandmatters.org/2020/07/23/house-votes-to-remove-taney-bust-from-u-s-capitol-replace-it-with-thurgood-marshall/.

CONCLUSION

The purpose of this thesis was to show how the decision was influenced by the political views of the Court members. Instead of focusing on the real issue, which was Scott's freedom, they shifted their views on the opportunity to deny Congressional power. Taney's ruling was interlocked with his racist opinions and once he saw the opportunity of expressing these opinions, he took it. The Dred Scott Case illustrates how the ones who are supposed to defend our justice are sometimes the ones who take it from us.

Northerners and Southerners had been divided long before the case started. The first part of this thesis described some important milestones in the United States history which worsened the sectional division. The Dred Scott case entered the halls of the Supreme Court when Kansas was experiencing its own civil war which at first, made the members of the court hesitant to address some political issues.

As the thesis illustrates, Dred Scott's visits complicated the case from the beginning and in the end, many members of the court took advantage of it. Not only was Dred's freedom at stake but also the freedom of an entire family. Thus, it was even more important to carefully examine the merits and choose a suitable argumentation. Even though Scott's lawyers tried their best, in the end, partisanship and racism prevailed.

In my opinion, the case was so intertwined with politics that it was almost impossible for Dred and his family to win the case. Taney's political and racist views were clearly shown in the majority opinion and many members of the court agreed with some of his statements. Only two justices wrote their dissenting opinion which was not enough even though the arguments presented in Curtis' opinion were, indeed, strong ones.

As demonstrated above, the opinions of the North and the South were depicted in various newspapers, demonstrating the mentality of those who lived there. Democrats believed that the decision would destroy their opponents but to their surprise, it only made them stronger. The case influenced the course of Lincoln's speeches and helped him reach the presidential post a few years later. Even though the case contributed to the sectional tension, later resulting in the Civil War, we cannot say that the Dred Scott decision was one of the direct causes of the war. Rather, it was one of the final nails in the coffin.

We can state that the Dred Scott decision represents an important historical milestone in the United States history, and that it is important to remember it even in today's non-slavery world. Looking back at the case, through the eyes of modern society, one can see our past mistakes and learn from them.

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