

---

---

## Dred Scott v. Sanford (1857)

### Vocabulary

**Missouri Compromise** An act of Congress passed in 1820 to keep a balance between the number of slave and free states; it allowed Missouri to enter the Union as a slave state and Maine to enter as a free state; the agreement excluded slavery from the Louisiana Territory north of 36° 30' (the southern boundary of Missouri).

**popular sovereignty** Principle that the power to govern belongs to the people, who can then grant it to the government of their choice.

### Reviewing the Case

Dred Scott was an African-American man born into slavery in Missouri. Scott was considered the property of Dr. Emerson, an army surgeon, and traveled with him to several army posts. In 1834, Scott went with Emerson to Rock Island, Illinois, a free state in which slavery was not allowed. In 1836, Emerson and his household moved to Fort Snelling in the upper Louisiana Territory (near present-day St. Paul, Minnesota). Under the **Missouri Compromise**, slavery was prohibited in that territory. In 1838, Emerson returned to the state of Missouri, taking with him Scott, Scott's wife Harriet, and their daughter Eliza. Emerson had purchased Harriet from another officer. After the return to Missouri, a second daughter, Lizzie, was born. Dr. Emerson died there.

In 1846, with the help of lawyers in the antislavery movement, Scott sued Emerson's widow in a Missouri court. He asked the court to declare him free because he had been a resident of a free state and a free territory. The lower court declared Scott a free man, but the Missouri Supreme Court reversed the decision in 1852.

Instead of appealing this decision directly to the Supreme Court, Scott's legal advisers then sued John Sanford of New York, Mrs. Emerson's brother, who had become Scott's legal owner. (Court records misspelled his name as *Sandford*, and it appears that way in

many reports.) Because the case now involved citizens of two states, it could be heard in the federal circuit court for Missouri.

Sanford's lawyers challenged Scott's right to sue, saying that an African American could not be a citizen. The federal court ruled that Scott's status in Missouri depended on state law, not on where he had lived or had traveled. A jury found in favor of Sanford. Scott's attorneys then appealed to the U.S. Supreme Court, charging that the circuit court had erred in its decision.

The case now involved several issues: (1) Was Dred Scott a citizen of the United States and thereby entitled to sue in federal court for the protection of his rights? (2) Did Scott's residence in free territory make him a free man? This second issue had become very controversial throughout the country. In some northern states, where antislavery feelings were strong, a slave was considered free as soon as he or she stepped onto free territory.

When the case was argued before the Supreme Court, another issue was added: Was it constitutional for Congress, through the Missouri Compromise, to ban slavery in the territories?

After months of debate, the Court, by a 7-2 vote, ruled against Scott, issuing one of the most controversial decisions of its history. Chief Justice Roger B. Taney wrote the decision, but all the justices commented. The majority opinion declared that as a person of African descent, Scott was not—and could not be—a citizen and so was not entitled to sue in federal court. The Court's decision considered Scott (and all slaves) to be property. To consider Scott a free man by his presence in a free territory or for Congress to pass an act declaring him free would be to allow the property of a citizen to be taken without due process of law. Slavery, according to the majority opinion, was a matter for state law.

Finally, Taney's opinion ruled that the Missouri Compromise was unconstitutional. Congress, he said, did not have the authority to prohibit slavery in the territories. What was more, Congress could not authorize the



territorial legislatures to outlaw slavery. Here is part of Taney's opinion:

And no words can be found in the Constitution which give Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. . . .

Upon these considerations, it is the opinion of the court that the act of Congress which prohibited a citizen from holding and owning property of this kind [slaves] in the territory of the United States north of the line therein mentioned, is not warranted by the Constitution, and is therefore void; and that neither Dred Scott himself, nor any of his family, were made free by being carried into this territory. . . .

The other majority justices agreed that Dred Scott remained a slave though they did not support all of Taney's points. The two dissenting justices, John McLean and Benjamin Curtis, disagreed on most points, particularly on the issues of black citizenship and the legality of the Missouri Compromise.

The *Dred Scott* decision was significant and controversial for many reasons. First, the Supreme Court declared an act of Congress unconstitutional, which it had not done since *Marbury v. Madison* in 1803. Second, it heightened the tension between northern and southern states over the question of slavery. To the delight of the South and to the angry denunciation of the North, the Court declared Congress had no right to determine the limits on slavery's expansion into the territories. In declaring the Missouri Compromise unconstitutional, it limited **popular sovereignty**, saying that people in the territories could not vote on whether they wanted their state to be slave or free.

Third, the increased tensions may have hastened the coming of the Civil War. Fourth, African Americans did not receive the rights granted in the Constitution until after the Civil War when Amendment Thirteen, which abolished slavery, and Amendment Fourteen, which granted citizenship to African Americans, were passed.



Name \_\_\_\_\_ Date \_\_\_\_\_

## ***Dred Scott v. Sanford (1857)***

### ***Elements of the Case***

**Directions:** Fill in the appropriate information for each of the following elements of this case.

1. State the issue before the Supreme Court in this case.

---

---

---

---

---

---

---

2. What facts of the case were presented to the Court?

---

---

---

---

---

---

---

3. What was the decision of the Court? What was the rationale behind it?

---

---

---

---

---

---

---

4. What was the effect of the decision?

---

---

---

---

---

---

---



Name \_\_\_\_\_

### **Evaluation of the Case**

**Directions:** Use your own judgment to evaluate the justices' decision and state your opinion of that decision.

1. In your opinion, could the outcome of the case have been politically motivated? Explain.

---

---

---

---

---

2. Read the parts of the Constitution that pertain to the slavery question. What do you think the framers of the Constitution actually did intend about the citizenship status of African Americans? Explain.

---

---

---

---

---

3. In the decision of the Court, Justice Taney stated that if the slave states did not recognize slaves as citizens of the state, they could not be citizens of the United States. Does this mean that each individual state has the right to determine citizenship? What effect would this have on the country? Explain.

---

---

---

---

---