

Voces Novae: Chapman University Historical Review, Vol 3, No 1 (2012)

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## The Reaction to the Dred Scott Decision

### Alix Oswald

On March 6, 1857, Dred Scott's eleven-year struggle for freedom had finally come to an end. The Supreme Court of the United States rendered its decision, ruling that Dred Scott was still a slave. Even more controversially, the Court ruled that the Missouri Compromise was unconstitutional; that all blacks, free or enslaved, could never be United States citizens, and that Congress did not have the right to decide the slavery question in the territories. This loaded decision, which was supposed to solve the slavery question once and for all and more importantly mitigate the nation's growing sectional crisis, ended up creating more tension in the country between the North and South. The reaction to the decision varied by region and political party, with it being criticized by northerners and Republicans, and praised by southerners and Democrats. The nation's intense reaction to the Dred Scott decision not only had an effect on politics in the late 1850s, but would also serve as one of several precipitates for the ultimate breakdown in American politics, the southern secession and Civil War.

### Background on the Case

In order to better understand the aftermath of the Supreme Court decision in the case of *Scott v. Sandford*, it is important to first detail the life Dred Scott and his family led under his masters, as well as the beginnings of the case. Born a slave in Virginia, Dred Scott's year of birth is estimated to have been around 1800.<sup>[1]</sup> His first known master was Peter Blow, a Virginia landowner and farmer. In 1818, the Blow family moved to Alabama, bringing with them their slave Dred, who at that time was named Sam.<sup>[2]</sup> Twelve years later, the Blow family and Scott moved to St. Louis, Missouri, where Peter Blow died in 1832.<sup>[3]</sup>

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A year later, Dred Scott was sold to an Army surgeon named Dr. John Emerson. From St. Louis, Dr. Emerson and his newly acquired slave moved to Fort Armstrong in Illinois, where he was to be employed as a physician. They remained stationed here from December 1, 1833 until May 4, 1836.<sup>[4]</sup> By this time, Illinois had entered the Union as a slavery free state, so legally Scott could have appealed for his freedom here; and according to legal precedent, a judge would most likely have proclaimed him free. But it seems at the time that Scott was either unaware that he lived in a free state, or he was content with staying with Dr. Emerson, as he did not claim his freedom in Illinois.<sup>[5]</sup> In May of 1836, Dr. Emerson and Dred Scott moved to Fort Snelling, located in present-day Minnesota, which was then part of the Wisconsin Territory.<sup>[6]</sup> Slavery in the Wisconsin Territory was illegal according to the laws set forth in the Northwest Ordinance of 1787, the Missouri Compromise of 1820, and the Wisconsin Enabling Act of 1836, and therefore Dred Scott could have been declared legally free. Yet again he did not petition for his freedom.

The doctor and Dred continued to live at Fort Snelling until April 1838.<sup>[7]</sup> During their time there, Dred married Harriet Robinson, who was the slave of Major Lawrence Taliaferro, who like Dr. Emerson was also stationed at Fort Snelling.<sup>[8]</sup> After the wedding, Major Taliaferro transferred the ownership of Harriet to Dr. Emerson.<sup>[9]</sup> In 1837, Dr. Emerson was transferred to the Jefferson Barracks in St. Louis, but left Dred and Harriet at Fort Snelling, renting them out to people for a fee.<sup>[10]</sup> Historian Paul Finkelman claimed, "The act of hiring out Dred Scott at Fort Snelling clearly brought the institution of slavery into the territory. Thus, Scott had a claim to freedom that all northern state supreme courts, and a good many southern judges, would have upheld."<sup>[11]</sup> During his next assignment at Fort Jesup in Louisiana, Dr. Emerson met and married Irene Sanford. Shortly after the wedding, Dr. Emerson requested the Scotts join him in Louisiana, and so they arrived in April of 1838. The Scotts did not remain long in Louisiana, as a few months later Emerson again relocated back to Fort Snelling, bringing with him his new wife and slaves. During their journey back to Fort Snelling, on a steamboat on the Mississippi River, Harriet Scott gave birth to the first of her two daughters, Eliza.

In 1840, Dr. Emerson went to Florida to serve in the Seminole War, leaving his wife and the Scotts in St. Louis, Missouri.<sup>[12]</sup> Two years later he returned to St. Louis, and shortly after he and his wife moved to Iowa, leaving the Scotts in St. Louis to be rented out to various masters.<sup>[13]</sup> In 1843, Dr. Emerson died, leaving his estate and slaves to his widow Irene.<sup>[14]</sup> Under her ownership, Dred and his family worked as hired slaves for the next three

years, with their earnings going to Irene.<sup>[15]</sup> A *Chicago Daily Tribune* article stated that in February 1846, Dred Scott attempted to purchase his and his family's freedom from Mrs. Emerson, "offering to pay part of the money down, and give an eminent citizen of St. Louis, an officer in the army, as security of the payment of the remainder."<sup>[16]</sup> Mrs. Emerson refused to sell the Scotts their freedom, most likely because she did not want to lose the income they generated. This is what prompted Dred Scott to sue Irene Emerson for his and his family's freedom in April 1846, and it also was to be the first case and trial on the long road to the Supreme Court of the United States.

In his book, historian Vincent C. Hopkins wrote that the case of *Scott v. Emerson* began on April 6, 1846, when "Dred Scott petitioned Judge Krum, of the St. Louis Circuit Court, for permission to bring suit for his freedom on the grounds of his residence in Illinois and in the Minnesota Territory."<sup>[17]</sup> Judge Krum granted his petition, allowing Scott to proceed with his case. In June 1847, Scott lost his trial on a technicality, as he was unable to provide witnesses who could attest to the fact that Mrs. Emerson owned him.<sup>[18]</sup> In December of 1847, Dred Scott was able to continue his case for freedom against Irene Emerson, as a judge declared a new trial. Irene and her lawyers challenged this order by bringing it before the Supreme Court of Missouri.<sup>[19]</sup> The Missouri Supreme Court decided in favor of Dred Scott in June of 1848, and the case proceeded to trial. In January of 1850, the St. Louis Circuit Court found that Scott and his family were free due to their residency in free jurisdictions. Unhappy with the decision, Irene Emerson appealed the case to the Supreme Court of Missouri. Shortly after, Irene moved to the East Coast and married Dr. C.C. Chaffee, who ironically was to become an anti-slavery politician, representing Massachusetts in the United States Congress. When she moved, Irene left her brother, John Sanford, in charge of her affairs in St. Louis: her case and the Scott family. In 1852, the Missouri Supreme Court overturned the ruling of the St. Louis Circuit Court, thus ruling that Scott was still a slave. In 1854, Scott sued John Sanford in United States Circuit Court for battery and wrongful imprisonment, and asked for \$9,000 in damages.<sup>[20]</sup> These charges were a façade, as the real purpose of this case was to take Scott's fight for freedom to the federal courts. In May of 1854, the United States Circuit Court reached a decision, ruling that Scott was still a slave.

In December of 1854, Dred Scott appealed the Circuit Court decision to the United States Supreme Court. The court proceedings began in February 1856, and besides the question of whether Dred Scott was a slave or not, the Court was also to decide on the citizenship of free

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blacks, the constitutionality of the Missouri Compromise, and the question of whether Congress had the right to prohibit slavery in federal territories. On March 6, 1857, the Supreme Court delivered its ruling in the form of Chief Justice Taney's Majority Opinion of the Court. The Court dismissed the case of *Scott v. Sandford* due to lack of jurisdiction, yet it still ruled on the merits of the case, outlining its decisions on them in Taney's Majority Opinion. The Supreme Court decided that blacks were not and could never be citizens of the United States, the Missouri Compromise was unconstitutional, and that Congress did not have the right to prohibit slavery in the federal territories.

### **Northern Reaction**

The first to publically react to the Dred Scott decision were Northerners, who wasted no time in reviling the decision in their newspapers. To Northerners, this decision was like a declaration of war on all of the ideals and freedoms awarded them by their states and territories, which stood opposed to the institution of slavery. Most articles published in Northern periodicals were in opposition to the decision, stating that it was the result of a slave power conspiracy that the Supreme Court belonged to, the other members of this conspiracy being President Buchanan and prominent Democratic politicians. The author of one Northern article even declared that since the Court's decision was the result of political corruption, it should be "regarded, throughout the Free States and wherever the pulse of Liberty beats, only as the votes of five slaveholders and two doughfaces upon a question where their opinion was not asked, and where their votes would not count."<sup>[21]</sup>

The Northern articles also revealed just how important and popular a news story the Dred Scott decision was. On the decision's newsworthiness, one *Chicago Daily Tribune* article declared, "Our readers will bear with us if we frequently bring this matter to their notice. Since the organization of the government, no event has occurred that will entail upon the country the consequences, which are involved in this partisan movement of the slavery propagandists. It is the first step in a revolution which, if not arrested, nullifies the Revolution of '76 and makes us all slaves again."<sup>[22]</sup> The impassioned speech in this quote, which served as a call to action, became commonplace in other Northern editorials.

One such article that included this stirring speech was, "Sebastopol is Taken," from the March 19, 1857 issue of the *Chicago Daily Tribune*. It started out by analyzing responses to the decision published in Southern papers, saying, "It is curious to read the comments of the leading slaveholding press on the decision in the Dred Scott case, and to observe how closely the Buchanan Journals of the North, when they dare speak out, echo the spirit of these comments. 'Sebastopol is taken,' shout the *Richmond Enquirer*. The Republicans 'snap and start and howl: it is the last throe of fanaticism,' exclaims the *Times*."<sup>[23]</sup> The article continued by stating that the slave power conspiracy could not stop the Northerners' fight for freedom. This article concluded with a call to action, asserting, "The remedy is- UNION, ACTION, THE BALLOT BOX! There is on the side of the Free States the population and the power- *the votes*- and whenever these votes shall agree, 'that Slavery shall not be the fundamental law of the land.' That decree will be omnipotent."<sup>[24]</sup> It concluded by propounding, "Let the Free States, then, have a unit in its Congressional Representation on the side of freedom, let the next President be a Republican, and 1860 will mark an era kindred with that of 1776, and the country and the Constitution be ruled and considered by men kindred in aim and principle with Washington, Jefferson and the Fathers!"<sup>[25]</sup> The author of this article predicted what was needed to combat the effects of the Dred Scott decision. Oddly enough, he predicted that a Republican President was needed in 1860 to establish freedom for all people of the United States, and unbeknownst to him at the time that prediction would come true with Abraham Lincoln's election.

Another Northern article characterized by bold, impassioned speech was from the *Chicago Daily Tribune*, entitled, "The New Federal Constitution." It began by stating that the journalists who supported the Buchanan administration "are pleasing themselves with the fancy that the decision of the Supreme bench of the United States in the Dred Scott case will put an end to the agitation of the slavery question."<sup>[26]</sup> The author then declared that these journalists were mistaken in their belief that the decision in the Dred Scott case would solve the slavery question, as the Fugitive slave law and the Nebraska bill before it had both failed to end the agitation over the slavery question.<sup>[27]</sup> The author asserted that the only way to solve the slavery question was to end slavery; and that even though slavery supporters may try to "heap statute upon statute, follow up one act of Executive interference with another, add usurpation to usurpation, and judicial decision to judicial decision, the spirit against which they are leveled is indestructible. As long as the press and speech are free, the warfare will be continued, and every attempt to suppress it... will only cause it to rage the more fiercely."<sup>[28]</sup> Furthermore, this article stated that with the Dred Scott decision, the pro-slavery Supreme Court was creating a new Constitution that went against what the Framers believed, turning the United States into

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"the Land of Bondage."<sup>[29]</sup> It was further suggested that since the United States would become synonymous with slavery, our flag "should have the light of the stars and the streaks of running red erased from it; it should be dyed black, and its device should be the whip and the fetter."<sup>[30]</sup> This was a very bold statement, which captured the frustrations that Northerners felt about the Dred Scott decision and slavery in general. Even though at that time it felt as though they were losing the fight against the slave power conspiracy, Northerners remained resolute to their anti-slavery cause.

Many of the Northern articles denounced the politics of the Dred Scott decision by critiquing either a certain aspect of the decision or an opinion of one of the Supreme Court justices. One such article was entitled, "Dred Scott on the Missouri Compromise," from the *Chicago Daily Tribune*. This article began by declaring that the Supreme Court decided "Congress had no power over slavery in the Territories, and, therefore, the 'Missouri Compromise' was unconstitutional," even though these questions were irrelevant to Dred Scott's claim to freedom.<sup>[31]</sup> It then went on to attack this ruling by proclaiming it to be the work of the slave power conspiracy. On this point it stated, "To manufacture *public opinion* is one of the devices of the Slave power, and for several years the measures of that party have been inaugurated by giving to the people, small scraps of their policy as they are able to bear it, and when the premonitory symptoms are favorable, to come out boldly, with other plans, armed and equipped as the law directs."<sup>[32]</sup> This statement accused the "Slave power" of deceiving its followers so that they would support the party's radical pro-slavery agenda. Concerning the Court's ruling that the Missouri Compromise was unconstitutional and that Congress did not have the power to prohibit slavery in the territories, the article stated that the reasons for this ruling were unknown.<sup>[33]</sup> Though, the author suggested that it could be deduced that the ruling meant "Congress has no power over Slavery in the Territories but to support it."<sup>[34]</sup> To conclude, this article's author denounced the provision that Congress had to support slavery in the territories, stating, "It is in vain that we may look for power in the Constitution to establish Slavery anywhere. The Constitution is the charter of our Freedom, and in every sense the blackest, poorest or meanest man, except he be convicted of crime, is entitled to the fullest protection of 'Life, Liberty, and the pursuit of happiness.'"<sup>[35]</sup> This excerpt was representative of the belief held by most Northerners, which was that the Constitution did not support the institution of slavery, but instead supported freedom and equality for all regardless of race.

While most Northern articles detailed an objection to the politics of the Dred Scott decision, some displayed a moral qualm. An article entitled, "Possible Citizenship of Negroes," expressed that it was sad that the Court's ruling denied "the possible right of citizenship of the United States to a particular race, forever excluding the African from the common equality conceded to all others, and even closing the door of national justice to him as an outlaw."<sup>[36]</sup> It further expounded that this part of the ruling, which supported racial prejudices, went against what the Constitution stood for and was also "condemned by the increasing light of civilization, and the advance of Christianity in the universal mind."<sup>[37]</sup> This article was representative of the growing number of Northerners who disapproved of slavery, and therefore the Dred Scott decision, due to their Christian beliefs. Many of these people were part of, or later joined, abolitionist groups that took a more proactive role in trying to end the immoral institution of slavery.

### **Southern Reaction**

In sharp contrast to the Northern reaction, Southerners universally lauded the decision issued in the Supreme Court case of *Scott v. Sandford*. They saw it as the ultimate vindication of their practice of slavery, and as the front page of the *Daily Morning News* of Savannah, Georgia, proclaimed, "the series of decisions of the Supreme Court of the United States in the Dred Scott case, is of more vital importance in reference to the settlement of the slavery question than any or all the other acts and proceedings upon this subject- legislative and judicial, State or Federal- since the organization of the Federal Government."<sup>[38]</sup> The idea that the Dred Scott decision provided the answer to the slavery question seemed to take hold in the South as almost all Southern responses to the decision made reference to it. As an article from the *Richmond Enquirer* asserted, "A prize, for which the athletes of the nation have often wrestled in the halls of Congress, has been awarded at last, by the proper umpire, to those who have justly won it. The *nation* has achieved a triumph, *sectionalism* has been rebuked, and abolitionism has been staggered and stunned."<sup>[39]</sup> Southerners also believed that since this Supreme Court decision had solved the slavery question, there would no longer be any reason for sectional tension between the North and South.

One article from *The Mercury* of Charleston, South Carolina, declared that the Supreme Court's decision in the Dred Scott case did indeed solve "in advance a question which threatened to provoke, at no distant day, much of angry discussion and sectional conflict;" though this was



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not the question of whether or not slavery should be legal in the United States.<sup>[40]</sup> The question that this article referred to was the "claim of negro citizens in the Northern States to Federal office and employment," which was addressed by the Supreme Court in the Dred Scott decision when it ruled that blacks, free or enslaved, could never be citizens of the United States.<sup>[41]</sup>

*The Mercury* newspaper of Charleston, South Carolina, was a fierce supporter of states' rights and "extreme southern nationalism."<sup>[42]</sup> Therefore, they had typically characterized the Supreme Court as being "inimical to the interests of the South and State Rights."<sup>[43]</sup> This changed when the Supreme Court handed down its decision in the case of Dred Scott. In *The Mercury* article entitled, "The Dred Scott Case- The Supreme Court on the Rights of the South," the paper expressed surprise that the Court, with its Dred Scott decision, would so openly support the interests of the South. The article argued that the Dred Scott decision aided the South's "claim to equality of privilege in the Confederacy," by giving it "the sanction of the deliberate judgment of the highest tribunal in the land."<sup>[44]</sup>

This *Mercury* article also showed great insight when it proclaimed, "In the final conflict between Slavery and Abolitionism, which this very decision will precipitate rather than retard, the principles of the judgment in the Dred Scott case may be of some avail to the South in giving an appearance of justice and moderation to its position."<sup>[45]</sup> *The Mercury* implored Southerners not to "abandon ourselves to the delirium of a premature triumph," as it predicted that the Dred Scott decision would not quiet the Northern abolitionists.<sup>[46]</sup> On abolitionists, the article asserted that they "are not at all abashed or dismayed; on the contrary they accept this repulse as another blow in the work of imparting compactness and strength to their organization, and from the fire that consumes *Dred Scott*, they appear to anticipate a conflagration which will again set the popular sentiment of the North in a blaze of indignation."<sup>[47]</sup> The article went on to state that the abolitionists probably had a chance of reversing the Dred Scott decision in the future, giving as an example the reversal of the Supreme Court decision that the National Bank was constitutional by the election of Andrew Jackson to the presidency.<sup>[48]</sup> This article concluded by warning Southerners that the Dred Scott decision would empower the "Black Republican party" to do all that it could to win the Presidential election in 1860, and therefore, Southerners must be prepared for the upcoming battle to keep the rights awarded them by the Dred Scott decision. <sup>[49]</sup>



While the majority of Northern articles attacked and critiqued the legality of the Dred Scott decision, only a few Southern articles examined the decision from a legal standpoint. One such Southern article, from the Charleston *Mercury*, analyzed the Dred Scott decision in a very interesting and novel way. This article examined the basis of the Dred Scott case, which was Dred Scott's claim that he was free due to his sojourns in free Northern states and territories, using the laws of ancient Rome. The author of this article, named as "Y," began by stating that he thought it was interesting that "one of the points mooted by" the Dred Scott case had already been settled by ancient Roman law.<sup>[50]</sup> This Roman law asserted, "if the slave of a Roman passed into the territory of a people by whose laws he ceased to be the slave of the Roman, and then again returned either to Rome or any State allied with her, his master's right to him immediately revived, and was, in fact, considered as never suspended."<sup>[51]</sup> The author further suggested that the United States should have applied this Roman law to its slaves. He also discussed a problem with America's slavery laws, declaring, "The Northern, and most, if not all, of the European States, refuse to recognize and protect within their limits our property in slaves."<sup>[52]</sup> He then suggested that like the Romans, Northern and Southern states should form treaties with each other in order to protect a master's right to his slave if he entered into a slavery free state. The author concluded by saying that the article was in response to the fact that the dissenting Supreme Court justices used international law and precedents to form their opinions, and therefore, the author wanted to reference historical international laws that supported the institution of slavery.

As many Northern articles criticized Southern articles that celebrated the Dred Scott decision, some Southern articles also did the same to Northern articles that denounced the decision. One such article from the *Fayetteville Observer* related that the *New York Tribune* was outraged by the Dred Scott decision. The article then cited this quote from the *Tribune's* article: "This Dred Scott decision, we need hardly say is entitled to just so much moral weight as would be the judgment of a majority of those congregated in any Washington bar-room. It is a dictum prescribed by the stump to the bench- the Bowie-knife sticking in the stump ready for immediate use if needed."<sup>[53]</sup> The *Observer* mocked the *Tribune* article's sensationalized language by saying, "Washington bar-room! The stump to the bench. The Bowie-knife! Beautiful sentiments, - but thoroughly characteristic of the leading 'Republican' Journal!"<sup>[54]</sup> The article then concluded by asserting that the *New York Tribune* should follow the *New York Times* by acquiescing to the fact that the Dred Scott decision was law and therefore must be respected as such.

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While Southern periodicals did report on the Dred Scott decision, the number of articles they published on it paled in comparison to the attention the Northern papers paid it. In fact, most of the editorials published on the decision in the South were in response to Northern editorials. Otherwise, most Southern papers only published articles that strictly detailed the facts of the case, and sometimes these news bulletin style articles were republished from popular Northern newspapers like the *Chicago Daily Tribune* or the *New York Daily Times*. During the late 1850s, Southern newspapers focused their attention more on the issues in Kansas and news regarding cotton trade and the price of cotton, rather than on the Dred Scott decision. Ultimately, it seemed that Southern newspapers did not publish a myriad of articles on the Dred Scott decision, like the Northern ones did, because they were of the mindset that since the Supreme Court decided the case in their favor, there was nothing to discuss or contest about the case in their papers.

### **The Reaction in the West**

Reactions to the Dred Scott decision not only appeared in the North and South, as newspapers in the West also published articles in response to the Court's decision. At the time that the Court rendered the decision, California had already entered the Union as a free state and Oregon was preparing to enter statehood. The reactions in these western papers were varied, as some articles condemned the decision while others showed indifference to it, and a few even blatantly supported it.

One western article that was condemnatory of the Dred Scott decision was entitled, "Judicial Influence- Politics upon the Bench- No.3," from California's *Sacramento Daily Union*. The article began by noting that Illinois Senator Stephen A. Douglas, who was a proponent of popular sovereignty when it came to the question of slavery in the territories, had declared that, "he would not participate in the Crusade against the Dred Scott decision, but that he would acquiesce therein and recognize slavery as a national institution..."<sup>[55]</sup> The author of this article used this example of Douglas's acquiescence to the decision to demonstrate just how profound an effect the Dred Scott decision had on the nation. On this the author proclaimed, "All agree that the world never before witnessed so vast a change in the policy of a nation as that inaugurated by the force of the Dred Scott decision."<sup>[56]</sup> The article then stated that with the delivery of the ruling in *Scott v. Sandford*, Taney and his Supreme Court were obliterating "the free policy of the past," and inaugurating "the reign of a dark institution over an extent of

country equal in area to the present thirty-two States."<sup>[57]</sup> This statement made direct reference to the territories and the fact that the Dred Scott decision effectively made slavery legal in these territories.

Another very interesting aspect of this *Sacramento Daily Union* article was that it described the role California played in the Supreme Court case of *Scott v. Sandford*. The article's author wrote, "California has not given birth to judicial serpents, but she has fostered them with the most ardent powers of her maidenhood and exhausted thereby her vitality, honor and good name."<sup>[58]</sup> The author continued by declaring that the role the state of California had in the dramatic Dred Scott case was "important and prolific of evil consequences."<sup>[59]</sup> California's evil involvement in the Dred Scott decision had to do with a case from the state's Supreme Court, which was referenced during the United States Supreme Court case of *Scott v. Sandford* by John A. Sanford's attorney, Reverdy Johnson, in order to bolster his client's case.<sup>[60]</sup>

This California Supreme Court case was from 1852 and involved two blacks named Perkins and Jones, who had been recaptured by their master in Sacramento so that they could be brought back to his plantation in Mississippi. The California Supreme Court ruled that Perkins and Jones, "having once been slaves, by virtue of a social and political institution recognized by the Federal Constitution, acquired a status, or rather the master became vested with a constitutional right of property, in them, which could not be destroyed by our State Constitution, or the laws of Mexico in force prior to the adoption thereof."<sup>[61]</sup> Sanford's lawyer, Reverdy Johnson, used the California ruling to demonstrate to the United States Supreme Court that even in a free state like California, a citizen's right to their slave property must be protected even if they sojourned to states that did not tolerate or approve of slavery. The author of this article believed that this California Supreme Court adjudication had such a profound effect on the outcome of the Dred Scott case, that he declared, "Thus to the Judiciary of California can the followers of the *Black King* turn their grateful eyes, and worship it with the devotion of the Arabian for his *Kaaba*."<sup>[62]</sup> This statement laid the blame of the outcome in the Dred Scott decision on the California Supreme Court for their 1852 decision, which set a precedent asserting that slaves that sojourned into free states and territories were still bound to their masters as slaves.

The author of this article also made reference to another case in California that was heard after the Dred Scott decision was issued. The case was referred to as the "Archy Case," and the court decided that the slave, Archy, was not free due to the provisions of the Dred Scott decision. The

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author asserted that the decision in the Archy Case went against what was laid out in the California State Constitution, which provided that California was a slavery-free state. The article then declared that, "On the authority of the Dred Scott decision, the Supreme Court declares that visitors are welcome to this State, attended by their slaves, whose services they can enjoy as a constitutional privilege."<sup>[63]</sup> This statement represented the fear that many people across the country held, which was that by first allowing slave owners to bring their chattels to serve them in northern and western territories and states, the only next step would be that the institution of slavery would be nationalized and therefore legal in all states and territories, despite what their citizens and state constitutions said on the matter.

One of the most discussed topics in these western newspapers, which related to the Dred Scott decision, was whether Oregon would enter the union as a free or slave state. Surprisingly, Oregon had a substantial slave population, estimated to be in the several hundreds, which was large for a western territory that was meant to be slavery free according to legislation like the Ordinance of 1787 and the Wilmot Proviso.<sup>[64]</sup> Oregon's slave population originated from the South, when their masters brought them from their southern homes to settle in the Oregon Territory. The author of the article, "Slave Property in Oregon," asserted that the slave owners knew that once they arrived in Oregon, it was understood that the slaves "could not, or should not, be held to involuntary servitude..."<sup>[65]</sup> Yet, these men refused to manumit their chattels when they got to the Oregon territory, and instead continued to keep them enslaved. These Oregon slave masters believed that they had the right to keep their slaves in a slavery-free territory due to the part of the Dred Scott decision, which proclaimed that Congress did not have the right to prohibit slavery in the territories. Also, in accordance with the Dred Scott decision, the article's author stated that it was generally accepted belief that the "Territorial Legislature must legislate for the protection of property in Slaves as well as any other property."<sup>[66]</sup> The author then affirmed that the institution of slavery would end in the Oregon territory only when Oregon entered the Union with a State Constitution declaring it to be slavery-free.

### **Reaction in the State Legislatures**

The furious reaction to the Dred Scott decision in the North compelled politicians in the northern state legislatures to action. The legislatures of New York, Ohio, New Hampshire, Massachusetts, and Pennsylvania all attempted to enact legislation that would defy the

Supreme Court's decision. Some states, like Pennsylvania, introduced resolutions that would only condemn the decision.<sup>[67]</sup> In Ohio, they sought to protect their residents by putting forth a bill that would prevent slaveholding and kidnapping in their state, in addition to putting forth a resolution regarding equal representation in the Supreme Court that would, "instruct our Senators, and request our Representatives in Congress, to use their best endeavors to obtain such a modification of existing laws as will secure to the Free States their just representation in that tribunal."<sup>[68]</sup> The New York State Legislature also took a hard line against the Dred Scott decision. Like Ohio, they too sought to protect the rights of their citizens. New York considered the decision an attack on their sovereignty, which "is not to be repelled with contemptuous language, but to be rebuked by such stern, quiet and decisive action as becomes the most powerful State of the American Union."<sup>[69]</sup> Also, throughout the article, the New York Senate Committee repeatedly declared that, "No power on earth can establish Slavery in the State of New York."<sup>[70]</sup>

The New Hampshire State Legislature took a more controversial step than the legislatures of other northern states by presenting a resolution that would give "all races and colors the same rights as white citizens."<sup>[71]</sup> This was controversial because while the majority of Northerners were against the institution of slavery in the late 1850s, at that time the idea that whites were superior to blacks was almost as universally held in the North as it was in the South. Another more radical proposition was also put forth in the Massachusetts State Legislature. The Massachusetts House adopted an order that instructed their Senators and Representatives in the United States Congress to "propose an amendment of the Constitution of the United States, electing Judges of the Supreme and inferior Courts by the people for a term of years."<sup>[72]</sup> They wanted this because they thought that the free states of the North, which had the largest population in the United States, could not be fairly represented until there was an equal balance of Northerners and Southerners in the Courts.

As some northern states attempted to take action against the Dred Scott decision through the introduction of new legislation, the South critiqued this extreme northern response in their periodicals. These critical southern articles showed that Southerners were not at all surprised that northern politicians had responded to the Court's decision in such a reactionary and sensationalized way. This lack of surprise was demonstrated in an article from the *Fayetteville Observer*, which reported, "The decision has produced a sensation in the North. The Republicans in the N.Y. Legislature have already a resolution 'to consider the decision.' We

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suppose they will resolve that it is not law, and should be nullified."<sup>[73]</sup> This author's statement that N.Y. would not abide by the laws of the decision was very much in keeping with the views of the majority of Southerners, as they expected the northern abolitionists of the Republican Party to fight the decision any way they could.

Another example of this southern response to the northern legislatures' reaction was demonstrated in an article entitled, "Dred Scott in the Pulpit and Legislature," from Georgia's *Chronicle & Sentinel*. The author of this article began by declaring that the Dred Scott decision had "set in motion the disturbing elements of fanaticism in the Legislatures of New York and Massachusetts," an example of this being that "the Republican representatives are appointing committees and drafting resolutions to see what is best to be done to over-rule or get rid of this most uncomfortable decision."<sup>[74]</sup> The author of this article then detailed the debate in the New York Assembly over the resolutions introduced to oppose the Supreme Court's decision. This discussion of the Assembly's debate was interesting because the northern articles written about the actions of northern state legislatures were much more brief, and less detailed.

This article's discussion of the New York Assembly's debate over the Dred Scott decision began by stating that Mr. Foote introduced the resolution to the state's Assembly in order to safeguard the rights of New York citizens "against such an outrageous decision."<sup>[75]</sup> The author then went on to address the part of the debate that was left out of the northern reports of this Assembly meeting, which was from the Assembly members opposed to the resolution, mainly Democrats. One member of the New York Legislature opposed to Mr. Foote's resolution was Mr. Jones.<sup>[76]</sup> The article's author asserted that Jones wondered what Foote "intended to accomplish" by his resolutions, and that "he had at all times professed to oppose fishy resolutions, and he (Mr. J.) must say that these partook of a fishy character."<sup>[77]</sup> Mr. Jones felt that these resolutions against the Dred Scott decision were "fishy" because "it had been settled long since that colored citizens are not in law considered citizens of the United States; but this hue and cry have never been raised until the necessities of the Republican party demanded it."<sup>[78]</sup> Therefore, the Democrats in the New York Assembly viewed these resolutions as a ploy for the Republicans to gain more attention and support for their party.

The article then went on to further detail Jones's opposition to the Republican resolutions. Jones said that he "congratulated that party upon the facility with which they had made a party

measure of the decision of the court in this case; but they were welcome to all the capital they could make out of a rebellion against the law." [79] Also during this debate, Jones accused the Republican party of introducing these resolutions in an effort to "turn aside public attention from the recent occurrences at Washington, and to avert the fatal consequences of the exposure of Republican corruption there." [80] Jones's political attack on the Republicans in the New York Assembly was interesting because it was the type of attack that was more commonly seen in the northern articles that lambasted the pro-slavery South and decried the "Slave Power Conspiracy." The fact that northern articles did not include such a detailed account of the New York Assembly's debate on this resolution, may have demonstrated that the newspapers did not reference any opinions that were opposed to their stance on the Dred Scott decision.

### **Legal Application of the Decision**

The decision rendered in the Supreme Court case of *Scott v. Sandford* created a change in federal policy and therefore it had several important legal effects and applications. The most important of these legal effects had to do with the Court's ruling that blacks, free or enslaved, were not and could never be citizens. This was important because after the decision was issued, this aspect of the decision was applied in criminal and civil cases, as well as having other legal applications in both the North and South.

While the Court's adjudication in the Dred Scott case seemed to be universally loathed in the North, there were some lawyers who saw an opportunity to use the decision to their advantage. One of the most fitting examples of this was in a case in Chicago, in which "four descendants of Africans," named as Alexander Price, John Taylor, John Williams, and Alfred Nichols, were "indicted in the Recorder's Court of this city for stealing a lot of poultry." [81] Their attorney attempted to fight the indictment and secure their release from custody, "on the ground that, under the recent decision of the Supreme Court in the famous Dred Scott case, they are merely chattels or merchandise and not persons as alleged in the indictment." [82] This was a brilliant move by the defendants' attorney, J.A. Thompson, in applying the Supreme Court's ruling on black citizenship to a criminal case. These four men were put on trial, but were found not guilty by a jury when coincidentally the only witness, himself "a descendant of an African," refused to testify because he thought that since he was himself "a mere chattel, a piece of merchandise, he could not be held amenable to the laws for committing perjury, and



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might as well... clear his friends as convict them."<sup>[83]</sup> This case demonstrated that while some people decided to openly defy the Supreme Court's decision, others were able to use it to their advantage.

Not all of the legal applications of the Dred Scott decision were in court cases. One example of an out of court application of the decision was detailed in the October 30, 1857, issue of the *Liberator*. It discussed how Thomas Howland, "a respectable colored man of Providence," applied to the United States State Department for a passport so that he could travel to Liberia for business.<sup>[84]</sup> His request for a passport was denied, and the application was returned with a note saying, "passports are not issued to persons of African extraction. Such persons are not deemed citizens of the United States. See the case of Dred Scott, recently decided by the Supreme Court."<sup>[85]</sup> The author of this *Liberator* article commented on the note, declaring that this response from the State Department implied that they were insulted to receive a passport request from a black man, who was born in the United States and who was a "citizen and a voter of one of the States of the confederacy."<sup>[86]</sup> From their response, it seemed like the State Department did not often receive passport requests from free blacks. Also, it was surprising that he would even try to apply for the passport, knowing that the Dred Scott decision had declared that no blacks could be United States citizens. This legal application of the Dred Scott decision was interesting because it showed an effect that the decision had on an aspect of American life, and on the life of a free black man in particular.

Legal points of the Dred Scott decision were also applied in southern court cases. One example of this was detailed in the article entitled, "Another Dred Scott Decision," which discussed the case of the *United States vs. The Slave girl Amy*, in which Amy was charged with stealing mail. This case was brought on a writ of error before the United States Circuit Court for the Eastern district of Virginia, at Richmond.<sup>[87]</sup> The presiding judge in this case was Taney, the very same man who presided as Chief Justice in the Supreme Court case of *Scott v. Sandford*. Of Taney's involvement in this case, the article's author expressed, "Chief Justice Taney has been ventilating the Constitution with another decision on the *status* of negro slaves, and their relations to white men as persons and property."<sup>[88]</sup> The slave girl Amy's lawyer, who was hired to defend her by her master, used several points of the Dred Scott decision for her defense in this case. The first defense argument supported by the decision was that slaves were not legally people. Firstly, the lawyer claimed that slaves were not legally considered people because they could not be "fined or deprived of their liberty," as they had none to be deprived

of.<sup>[89]</sup> Secondly, they were not considered legally people because in a criminal trial they could not be tried by a jury of their peers as stipulated in the Constitution, due to the fact that the jury would have to be made up of slaves.<sup>[90]</sup>

Another argument used from the Dred Scott decision was that the Court did not have jurisdiction because "1, if a negro cannot sue or be sued civilly, neither can he be tried in a cause where conviction would impose fine and deprivation of liberty; and 2, because if the negro has no personal rights, he cannot be saddled with any personal responsibilities."<sup>[91]</sup> The attorney also argued that since Amy was property, "her imprisonment would involve an infraction of that clause in the Constitution which declares that private property shall not be taken for public use without just compensation."<sup>[92]</sup> The final argument he made was that "the relations of slaves to the community were questions exclusively of State jurisdiction."<sup>[93]</sup> Basically, all of these arguments that the lawyer used in the defense of the slave girl Amy, and the fact that her master paid for his services, demonstrated that the defense used points of the Dred Scott decision in order to absolve Amy of the crime, but only so that she could get back to working as a slave for her master.

Ultimately, Judge Taney had to issue a ruling in this case. He agreed with the arguments that Amy's defense attorney had made, that the slave girl was not legally a person, but was considered property, therefore making it illegal to deprive her master of his property without just compensation. Though, Taney still said that he had to issue a punishment to Amy for her crime. He also said that he could not give a fine as a punishment because it would be unfair to make her master pay for what she did, and because there was only one punishment for this crime anyway, which was imprisonment.<sup>[94]</sup> Finally, Taney had to reach this conclusion because, as the article's author pointed out, if he did not punish the slave girl based upon the lawyer's arguments, which stemmed from the Dred Scott decision, it would have sent the message that blacks would not be held accountable for their actions and crimes. Therefore, any smart criminal would just hire blacks, like the "boy Cuffee and the boy Sambo," to commit their crimes for them so that no one would be punished.<sup>[95]</sup> All in all, this case proved that there were huge flaws in the Dred Scott decision, and that it was going to be impossible to faithfully enforce all of the laws that were enacted by the decision.

### **Decision's Effect on Politics**

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With the Supreme Court's March 6, 1857 ruling, it had been anticipated by many, especially Southern Democrats, that this Dred Scott decision would deal a fatal blow to the relatively young Republican Party. According to the Philadelphia *Pennsylvanian*, the Court's decision was "the funeral sermon of Black Republicanism," as it "sweeps away every plank of their platform, and crushes into nothingness the whole theory upon which their party was founded."<sup>[96]</sup> Continuing on this topic, the New Orleans *Picayune* stated that the decision "is a heavy blow to Black Republicanism and its allies, the force of which they are attempting to break, in some slight degree, by raising a clamor against the judgment of the court for what it does not contain, and alarming the Northern mind for consequences which do not belong to it at all."<sup>[97]</sup> The *Augusta Constitutionalist* brusquely declared that the ruling in *Scott v. Sandford* "crushes the life out of that miserable political organization;" while with equal harshness the New York *Herald* asserted that the decision, "at a single blow, shivers the anti-slavery platform of the late great Northern Republican party into atoms."<sup>[98]</sup> As these excerpts demonstrated, the Democrats truly believed that the Supreme Court's decision had stopped the Republican Party dead in its tracks.

At first, the Southerners expected that the northern Republicans would fully acquiesce to the Court's decision and give up on their anti-slavery platform, but they were wrong, as the decision spurred the Republican Party to take up the anti-slavery cause with more zeal and determination than ever. Republican politicians found within the decision several aspects that they could censure as part of their anti-slavery platform. Even though the decision encouraged the Republican Party to act against slavery, their re-inspired anti-slavery platform also had the potential to be a detriment to the up and coming political party. The historian Don E. Fehrenbacher explained that the excessive Republican response to the decision in the North could "destroy the party's moderate image in the North and push it closer to a fatal association with abolitionism in the public mind."<sup>[99]</sup> Therefore, in order for the party to gain the prominence it sought in the national political arena, it was essential that it made sure to distinguish itself from the fanatical abolitionists.<sup>[100]</sup>

Another reason that the Republican Party had to disassociate itself from militant abolitionists was because "Garrisonians, after all, were detested and feared in the North less for their denunciation of slavery than for their attacks on the Constitution."<sup>[101]</sup> It seems that both Republicans and Democrats thought of abolitionists as too radical in their views, to the point to which it seemed that they were anti-government. On this topic, the New York *Journal of*

*Commerce* declared that the Republican Party stood for "revolution and anarchy," and according to the editor of the *Portland Eastern Argus*, "The Republicans must go out of business or accept the role of revolutionaries... for there were now only two categories-loyal citizens and Garrisonians."<sup>[102]</sup> The *Richmond Enquirer* even boldly proclaimed, "All the insane asylums in Yankeedom will be inadequate for the accommodation of its victims."<sup>[103]</sup> Ultimately, the most condemnatory statement made about the Republican Party and its criticism of the Supreme Court's decision was from the *Iowa State Democrat*, which asserted, "These daring libellers will next ascend to the Throne of the Supreme Ruler of the Universe and accuse God of partiality... They have the audacity of the devil... They hate the Constitution, the Bible, and God... Where they will stop in their blasphemies and their treason no mortal can tell."<sup>[104]</sup> While the Republicans sought to distance themselves from abolitionists like William Lloyd Garrison, the Democrats hampered their efforts by continually associating abolitionism with the Republican Party, making them one in the same.

Much to the Democrats' chagrin, the Republican Party effectively used the Dred Scott decision to bolster their anti-slavery efforts, and no Republican politician benefited from the decision more than Abraham Lincoln. In his 1858 campaign for Illinois Senator, Lincoln engaged in an impassioned debate with his competitor, Democrat Stephen A. Douglas, as they continually responded to each other's attacks in a series of speeches and seven debates, which would come to be known as the Lincoln-Douglas debates. Lincoln often condemned the Dred Scott decision in his speeches and attacked Douglas, naming him as a part of the slave power conspiracy, while Douglas declared Lincoln to be an abolitionist who wanted blacks to be equal to whites and have the same freedoms as they did.

### **Lincoln-Douglas Debates**

One of the most famous speeches of the Lincoln-Douglas debates was Lincoln's House-Divided speech, which he delivered in Springfield, Illinois, on June 16, 1858 to the Illinois Republican Convention.<sup>[105]</sup> This was also the first speech that Lincoln gave during his 1858 campaign for the Illinois Senate seat.<sup>[106]</sup> Lincoln began his speech by detailing the condition that the United States found itself in. He related that it had been five years since the enactment of the Kansas-Nebraska Act, which was meant to have put an end to the strife over slavery, yet he saw it as having the opposite effect, as it only intensified the agitation.<sup>[107]</sup> Lincoln prognosticated that the slavery agitation would not stop, "until a crisis shall have been reached, and

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passed."<sup>[108]</sup> He then famously declared, "A house divided against itself cannot stand."<sup>[109]</sup> He went on to clarify what he meant by this declaration, stating that the United States government could not survive being "half slave and half free."<sup>[110]</sup> He did not expect "the Union to be dissolved," or "the house to fall," but he did envisage that the country would "cease to be divided."<sup>[111]</sup> Therefore, he concluded that the United States would have to either abolish slavery throughout the entire country, or permit slavery in all of its states and territories. Lincoln believed that at that point in time the latter was more likely, and he cited the recent Dred Scott decision and the Kansas-Nebraska Act as evidence of this inclination towards universal slavery in the Union.

Abraham Lincoln blamed the nation's proclivity for a pro-slavery Union on what he called the slave power conspiracy. In his House-Divided speech, he outlined who the members of the conspiracy were and how they gained power and influence. Lincoln asserted that the Kansas-Nebraska Act of 1854 was the "first point gained" for the slave power conspiracy, as it "opened all the national territory to slavery."<sup>[112]</sup> Lincoln's opponent, Stephen A. Douglas, was the framer of this bill and therefore this was one of the ways in which Lincoln connected Douglas to the slave power conspiracy. Lincoln detailed that while the Kansas-Nebraska Act was going through Congress, the Dred Scott case was being heard in the United States Circuit Court of Missouri, and for both a decision was reached in May of 1854.<sup>[113]</sup> Lincoln then discussed how before the 1856 presidential election, the Dred Scott case "came to, and was argued in the Supreme Court of the United States; but the decision of it was deferred until after the election." He concluded, "Still, before the election, Senator Trumbull, on the floor of the Senate, requests the leading advocate of the Nebraska Bill to state his opinion whether the people of a territory can constitutionally exclude slavery from their limits; and the latter answers, 'That is a question for the Supreme Court.'"<sup>[114]</sup> This was an attempt by Lincoln to further associate Douglas with the slave power conspiracy, and to discredit Douglas amongst Illinois Republicans by reminding them that he supported the Supreme Court's decision in the case of *Scott v. Sandford*.

Lincoln further connected the slave power conspiracy to the Dred Scott case by relating how coincidental it was that during Buchanan's Presidential Inaugural Address, the newly elected president "fervently exhorted the people to abide by the forthcoming decision, whatever it might be," and then just a few days later the Supreme Court rendered its verdict in the case of *Scott v. Sandford*.<sup>[115]</sup> Lincoln recalled how Stephen A. Douglas, found "an early occasion to make a speech at this capitol indorsing the Dred Scott decision, and vehemently denouncing all

opposition to it."<sup>[116]</sup> President Buchanan also took another opportunity to support the Dred Scott ruling by means of the Silliman letter, which he wrote in response to a letter written by Benjamin Silliman and forty-two of his fellow Connecticut citizens that protested Governor Walker's use of military force against anti-slavery government supporters in Kansas.<sup>[117]</sup> In Buchanan's reply, which was printed in his mouthpiece the *Washington Union*, he declared that according to the recent Dred Scott decision, slavery was allowed in Kansas and the other territories.<sup>[118]</sup> To Lincoln, all of these acts seemed to confirm the existence of a slave power conspiracy.

In his speech, Lincoln then attacked Douglas for his statement that he cared not "whether slavery be voted down or up."<sup>[119]</sup> Lincoln declaimed, "The several points of the Dred Scott decision, in connection with Senator Douglas' 'care not' policy, constitute the piece of machinery, in its present state of advancement."<sup>[120]</sup> The machinery Lincoln referred to was meant to signify the slave power conspiracy. He stated that the "working points of that machinery" were: firstly, blacks whether free or enslaved could never be citizens; secondly, neither Congress nor a territorial legislature could prohibit slavery from the territories; and finally, the question of whether sojourns by slaves with their masters into free states was enough to emancipate them, which was to be decided by state courts.<sup>[121]</sup> Lincoln asserted that the amendment to the Kansas-Nebraska Bill, which would have declared "the right of the people to exclude slavery," was voted against because "the adoption of it would have spoiled the niche for the Dred Scott decision," which declared the "perfect freedom of the people, to be just no freedom at all."<sup>[122]</sup>

Lincoln implied that the postponement of the Dred Scott decision and President Buchanan's public support for the decision before the Supreme Court tribunal had even rendered a ruling were evidence of a slave power conspiracy. On this Lincoln said, "In such a case, we find it impossible to not believe that Stephen and Franklin and Roger and James all understood one another from the beginning, and all worked upon a common plan or draft drawn up before the first lick was struck."<sup>[123]</sup> Lincoln further commented upon the fact that Chief Justice Taney's Dred Scott decision did declare that Congress and territorial legislatures had no right to prohibit slavery from the territories, but he pointed out that the ruling failed to mention whether or not a state or its citizens had the right to ban slavery within their own state.<sup>[124]</sup> Lincoln prophesied that it was only a matter of time until another Supreme Court case came along, one that would have decided that the Constitution of the United States did not allow states to prohibit slavery

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within their own borders.<sup>[125]</sup> Lincoln ultimately believed that for the preservation of the Union, the country would have to either legalize slavery in all states and territories or abolish slavery universally. He stated, "We shall lie down pleasantly dreaming that the people of Missouri are on the verge of making their state free; and we shall awake to the reality, instead, that the Supreme Court has made Illinois a slave state."<sup>[126]</sup> He declared that in order to stop this from happening, they would have to overthrow "the power of the present political dynasty," which was the slave power conspiracy.<sup>[127]</sup> Lincoln concluded his speech by again attacking Douglas and his views on slavery. He called Douglas a "caged and toothless" lion, and stated that since Douglas did not care about the issue of slavery, he would not do anything to stop its spread throughout the country.<sup>[128]</sup> He again reminded his fellow Republicans that his Democratic opponent, Stephen A. Douglas, "has done all in his power to reduce the whole question of slavery to one of a mere right of property..."<sup>[129]</sup> Lincoln ended his speech by attempting to rally Republican support by telling his fellow Republicans that if they stand together, they could not fail.<sup>[130]</sup>

The most important of the debates between Lincoln and Douglas was held in Freeport, Illinois, on August 27, 1858. In this debate, Lincoln asked Douglas a series of questions. The most notable of these questions was the third question he asked, which came to be known as the "Freeport question." Lincoln asked Douglas, "If the Supreme Court of the United States shall decide that States can not exclude slavery from their limits, are you in favor of acquiescing in, adopting and following such decision as a rule of political action?"<sup>[131]</sup> Douglas brushed off this question, choosing not to answer it, but to mock it. Douglas did not think that any judge would ever render a decision that would so blatantly go against the wishes of the people. Lincoln asked this question because he wanted to fluster Douglas, and he wanted to further associate him with the slave power conspiracy. Ultimately, Douglas won the Senate seat, but this campaign cemented Lincoln's status as a national political figure and helped him garner the support he needed to get elected as the first Republican President of the United States in 1860.

### **Sectional Crisis and the Civil War**

The 1850s were a period marred by a sectional crisis in the United States. Prior to the Dred Scott decision, tensions over slavery in the territories and Kansas were already running high and causing regional conflicts within the nation. The Kansas-Nebraska Act of 1854 had been created to try to appease both sides, using Stephen A. Douglas' method of popular sovereignty, which



provided that the people of the Kansas and Nebraska territories could decide for themselves whether or not they wanted slavery to be legal within their borders. Around the same time as the Dred Scott case was advancing through the courts, trouble was brewing in Kansas. The residents of the Kansas territory wanted to enter the Union, but they had to decide whether to enter as a free or slave state. Though the majority of Kansas's residents were not in favor of slavery, when it came time to create and vote for a State Constitution, the anti-slavery faction refused to participate, leaving the pro-slavery group winners by default. This pro-slavery Constitution stirred up a lot of controversy and uproar within Kansas and across the nation, with federal politicians and the President even weighing in on the so-called Lecompton controversy.

When the Supreme Court finally issued their decision in the case of *Scott v. Sandford* on March 6, 1857, the resulting effect seemed to have been increased tension between the North and South. The outcry over the Dred Scott decision spurred Northerners to overwhelmingly vote Republican, to represent their stance against slavery, by electing Abraham Lincoln as President of the United States in 1860. This created an issue for America worse than the sectional crisis. Lincoln's election spurred Southern states to one by one secede from the Union, and ultimately, it was this intensified sectional conflict that caused the Union in the North and the Confederate states in the South to descend into Civil War, which ravaged the country from 1861 until 1865.

While the Dred Scott decision was not one of the major causes of the Civil War, it was a precipitate that ultimately affected two main contributing factors of the war, which were the sectional crisis and the fracturing within the Democratic Party. The northern and southern branches of the Democratic Party had been at odds over the question of slavery in the territories prior to the Supreme Court's rendering of a decision in the case of *Scott v. Sandford*. While Stephen A. Douglas and the controversy over the Lecompton Constitution played a more vital role in the disunity within the Democratic Party, the Dred Scott decision still had some effect on it as well. On the discord within the political party, Don E. Fehrenbacher stated in *The Dred Scott Case*, "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," which he called, "an issue that had lost much of its practical significance while becoming ever more intensely charged with symbolic meaning and emotional force."<sup>[132]</sup> Fehrenbacher further added that, "Taney's proslavery opinion lent credence to the fear of many northerners that an aggressive slave power was determined to extend its peculiar institution throughout the federal territories and

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perhaps even into the free states."<sup>[133]</sup> While he stated that, "At the same time, the fierce Republican attack on the decision confirmed many southerners in the fear that no amount of judicial vindication could protect their slaveholding society against increasing northern aggression."<sup>[134]</sup> Therefore, the Dred Scott decision did have an effect on the increasing hostility between the North and South, but was not as important a factor as the dispute over the Lecompton Constitution.

Another major cause of the Civil War was the 1860 election of a Republican, Abraham Lincoln, to the Presidency. Lincoln had gained much more support for himself and the Republican Party from the speeches he gave during his 1858 campaign against Douglas for Illinois Senator. In these speeches, Lincoln frequently referenced the evils of the Dred Scott decision, reiterated his stance against slavery, and warned that the present Democrat controlled government was on the verge of nationalizing slavery. This gained Lincoln the majority of free state votes in the presidential election because northerners were worried that Douglas' concept of popular sovereignty would not protect the free states from the spread of slavery. To many southerners, it was clear that Lincoln was going to become the next President of the United States. This gave the southerners time to consider what the implications of having a Republican president would be to their way of life. They felt that an anti-slavery government would not address their interests, especially when Lincoln would appoint fellow anti-slavery Republicans to governmental and territorial offices, which would discourage southern slaveholders "from exercising their rights under the Dred Scott decision."<sup>[135]</sup> Ultimately, this, along with economic factors, was what caused the southern states to secede from the Union and from President Lincoln's control. And it was this break up of the Union that plunged the country into Civil War from 1861 to 1865, with the secessionist South pitted against the unionist North.

### **Far Reaching Effects of the Decision**

The Dred Scott decision had far reaching effects even long after it seemed like it had lost its influence. On February 23, 1865, Illinois Senator Lyman Turnbull proposed to Congress, House bill No. 748, which would have provided for a bust of Chief Justice Taney to be made and placed inside the Supreme Court Room.<sup>[136]</sup> To this proposition, Senator Charles Sumner of Massachusetts retorted, "I object to that; that now an emancipated country should make a bust to the author of the Dred Scott decision."<sup>[137]</sup> Senator Wilson also vehemently opposed this bill, and responded with an impassioned speech. He began by declaring, "We, the chosen

representatives of a people who have reversed that unrighteous decree, trampled it beneath our feet with loathing and scorn unutterable," had ended up "sitting here in the closing hours of the Thirty-Eighth Congress with an empty Treasury."<sup>[138]</sup> He expressed that Congress had more important matters to attend to, like the "\$130,000 due to the heroes of the Republic who are fighting, bleeding, dying to defend their country," which was "menaced by armed treason born of the Dred Scott decision."<sup>[139]</sup> Senator Wilson then condemned Congress for "consuming precious time and giving our voices and votes to take \$1,000 out of the pockets of the people, to keep out of the hands of our soldiers," which were "outstretched to receive them."<sup>[140]</sup> He concluded by again denouncing the proposal to allocate "\$1,000 to set up a bust to the memory of the man," who Wilson described as doing "more than all other men that ever breathed the air or trod the soil of the North American continent to plunge the nation into this bloody revolution."<sup>[141]</sup>

These impassioned responses, eight years after Taney handed down the Dred Scott decision, show just how great an impact the decision had had on the nation. The Dred Scott decision would still continue to play a role in American politics and society long after it was supposed to have been made ineffective by the Thirteenth, Fourteenth, and Fifteenth Amendments. It remained a factor in American politics and society at this time because though by law blacks were free citizens of the United States, they were still repressed and treated as inferior to whites in American society. Historian Don E. Fehrenbacher detailed in his book *The Dred Scott Case*, how federal judge, John Minor Wisdom, asserted in 1968, that "it was *Brown v. Board of Education* that 'erased *Dred Scott*;' for only after that landmark decision in 1954 were Negroes 'no longer beings of an inferior race- the Dred Scott article of faith.'"<sup>[142]</sup>

All in all, the Dred Scott decision had a deeply felt impact on American politics and society, with the greatest backlash against it occurring in the North. At that time, the nation was split on whether the decision was the answer to the slavery question or a threat to American freedom, but all Americans were united in their belief that the Dred Scott case and its controversial decision were going to be an important milestone in American history.

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- [2] Vincent C. Hopkins, *Dred Scott's Case*, (New York: Russell & Russell, 1967), p. 2.
- [3] Finkelman, 14.
- [4] *Ibid.*, 14.
- [5] *Ibid.*, 14.
- [6] *Ibid.*, 15.
- [7] Finkelman, 15.
- [8] *Ibid.*, 15-16.
- [9] *Ibid.*, 16.
- [10] *Ibid.*, 16-17.
- [11] *Ibid.*, 17.
- [12] *Ibid.*, 19.
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- [14] *Ibid.*, 19.
- [15] *Ibid.*, 19.
- [16] "The Original Dred Scott a Resident of St. Louis- Sketch of his History," *Chicago Daily Tribune*, April 15, 1857.
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- [19] *Ibid.*, 22.
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- [23] "Sebastopol is Taken," *Chicago Daily Tribune*, March 19, 1857.
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- [35] *Ibid.*
- [36] "Possible Citizenship of Negroes," *Chicago Daily Tribune*, April 10, 1857.
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- [39] "The Dred Scott Case," *Richmond Enquirer*, March 10, 1857.
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- [41] *Ibid.*
- [42] Finkelman 128
- [43] "The Dred Scott Case- The Supreme Court on the Rights of the South," *The Mercury*, April 2, 1857.
- [44] *Ibid.*
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- [48] Ibid.
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- [56] Ibid.
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- [58] Ibid.
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- [62] Ibid.
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