

AP US HW - Read by next class

1. The Pro-Southern Court Speaks (1857)

Dred Scott, an illiterate Missouri slave, was taken by his master for several years (1834-1838) to the free state of Illinois and then to a portion of Wisconsin Territory now located in the state of Minnesota. The Minnesota area was then free territory, since it lay north of the line of 36° 30' established by the Missouri Compromise of 1820 (subsequently repealed in 1854). Scott, taken in hand by interested abolition-

ists, sued for his freedom on the grounds of residence on free soil. The case was appealed from the circuit court to the Supreme Court, which grappled with several basic questions: Was a slave a citizen under the Constitution? (If not, he was not entitled to sue in the federal courts.) Was Dred Scott rendered free by residence in Wisconsin Territory, under the terms of the Missouri Compromise? The Court, headed by the pro-Southern Chief Justice Roger Taney of the slaveholding state of Maryland, ruled as follows. How were the basic questions answered? What were their implications for the future?

Now . . . the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every state that might desire it, for twenty years. And the government in express terms is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection, than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

Upon these considerations, it is the opinion of the Court that the Act of Congress [Missouri Compromise] which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line [of 36° 30'] 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; even if they had been carried there by the owner with the intention of becoming a permanent resident. . . .

Upon the whole, therefore, it is the judgment of this Court that it appears by the record before us that the plaintiff in error [Dred Scott] is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States for that reason had no jurisdiction in the case, and could give no judgment in it.

Thinking Questions

* How does the Supreme Court use the Constitution to protect slavery?

* What might be the broader implications of this decision?