Text of Manifestos 4: The Dred and Harriet Scott Decision

Dred Scott Decision: Majority Opinion, Justice Roger B. Taney

March 6, 1857

Part 1

The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by the instrument to the citizen?

The words “People of the United States” and “citizens” are synonymous terms. . . They both describe the political body who. . . form the sovereignty, and who hold the power and conduct the Government through their representation. . . . The question before us is, whether the class of persons described in the plea in abatement [people of African ancestry] compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word ”citizens” in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

. . . In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits, and the rights of citizenship a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other state.

. . . [The] legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument. It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and

enlightened portion of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. . . .

Part 2

They [negroes] had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery. . . . He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

. . . [there] are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of person, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.

One of these clauses reserves to each of the thirteen States the right to import slaves until the year 1808. . . . And by the other provision the States pledge themselves to each other to maintain the right of property of the master, by delivering up to him any slave who may have escaped from his service, and be found within their respective territories. . . . And these two provisions show, conclusively, that neither the description of persons therein referred to, nor their descendants, were embraced in any of the other provisions of the Constitution; for certainly the two clauses were not intended to confer on them or their posterity the blessings of liberty, or any of the personal rights so carefully provided for the citizen.

No one of that race had ever migrated to the United States voluntarily; all of them had been brought here as articles of merchandise. . . . It is obvious that they were not even in the minds of the framers the Constitution when they were conferring special rights and privileges upon the citizens of a State in every other part of the Union.

And upon a full and careful consideration of the subject, the court is of opinion, that, . . . Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States, and not entitled as such to sue in its courts; and, consequently that the Circuit Court had no jurisdiction of the case, and that the judgment on the plea in abatement is erroneous. . . .

Dred Scott Decision: Dissenting Opinion, Justice Benjamin Curtis

March 6, 1857

Part 1

[The] . . . question is, whether any person of African descent, whose ancestors were sold as slaves in the United States, can be a citizen of the United States. If any such person can be a citizen, this plaintiff has the right to the judgment of the court . . . ; for no cause is shown . . . why he is not so, except his descent and slavery of his ancestors. The first section of the second article of the Constitution uses the language, "a citizen of the United States at the time of the adoption of the Constitution." One mode of approaching this question is, to inquire who were citizens of the United States at the time of the adoption of the Constitution. . . .

To determine whether any free persons, descended from Africans held in slavery, were citizens of the United States . . . at the time of the adoption of the Constitution . . . , it is only necessary to know whether any such persons were citizens of either of the States under the Confederation, at the time of the adoption of the Constitution.

Of this there can be no doubt. At the time of the ratification of the Articles of Confederation, all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens. . . .

The fact that . . . this fourth article of the Confederation would have the effect to confer on such persons the privileges and immunities of general citizenship, were not only known to those who framed and adopted those articles, but the evidence is decisive, that the fourth article was intended to have that effect, and that more restricted language, which would have exclude such persons, was deliberately and purposively rejected.

Did the Constitution of the United States deprive them or their descendants of citizenship?

Part 2

That the Constitution was ordained and established by the people of the United States, through the action, in each State, of those persons who were qualified by its laws to act thereon, in behalf of themselves and all other citizens of that State. In some of the

States, as we have seen, colored persons were among those qualified by law to act on this subject. These colored persons were not only included in the body of “the people of the United States,” by whom the Constitution was ordained and established, but in at least five of the States they had the power to act, and doubtless did act, by their suffrages, upon the question of its adoption. It would be strange, if we were to find in that instrument anything which deprive of their citizenship any part of the people of the United States who were among those by whom it was established.

I can find nothing in the Constitution which, proprio vigore [by its own force], deprives of their citizenship any class of persons who were citizens of the United States at the time of its adoption, or who should be native-born citizens of any State after its adoption; nor any power enabling Congress to disfranchise persons born on the soil of any State, and entitled to citizenship of such State by its Constitution and laws. And my opinion is, that, under the Constitution of the United States, every free person born on the soil of a State, who is a citizen of that State by force of its Constitution or laws, is also a citizen of the United States. . . .

. . . It has been often asserted that the Constitution was made exclusively by and for the white race. It has already been shown that in five of the thirteen original States, colored persons then possess the elective franchise, and were among those by whom the Constitution was ordained and established. If so, it is not true, in point of fact, that the Constitution was made exclusively by the white race. And that it was made exclusively for the white race is, in my opinion, not only an assumption not warranted by anything in the Constitution, but contradicted by its opening declaration, that it was ordained and established by the people of the United States, for themselves and their posterity. And as free colored persons were then citizens of at least five states, and so in every sense part of the people of the United States, they were among those for whom and whose posterity the Constitution was ordained and established. . . .

Frederick Douglass

Speech on the Dred Scott Decision (excerpt)

Read the full speech here

Loud and exultingly have we been told that the slavery question is settled, and settled forever. You remember it was settled thirty-seven years ago, when Missouri was admitted into the Union with a slaveholding constitution, and slavery prohibited in all territory north of thirty-six degrees of north latitude. Just fifteen years afterwards, it was settled again by voting down the right of petition, and gagging down free discussion in

Congress. Ten years after this it was settled again by the annexation of Texas, and with it the war with Mexico. In 1850 it was again settled. This was called a final settlement. By it slavery was virtually declared to be the equal of Liberty, and should come into the Union on the same terms. By it the right and the power to hunt down men, women, and children, in every part of this country, was conceded to our southern brethren, in order to keep them in the Union. Four years after this settlement, the whole question was once more settled, and settled by a settlement which unsettled all the former settlements.

The fact is, the more the question has been settled, the more it has needed settling. The space between the different settlements has been strikingly on the decrease. The first stood longer than any of its successors. There is a lesson in these decreasing spaces. The first stood fifteen years — the second, ten years — the third, five years — the fourth stood four years — and the fifth has stood the brief space of two years. This last settlement must be called the Taney settlement. We are now told, in tones of lofty exultation, that the day is lost — all lost — and that we might as well give up the struggle. The highest authority has spoken. The voice of the Supreme Court has gone out over the troubled waves of the National Conscience, saying peace, be still.

This infamous decision of the Slaveholding wing of the Supreme Court maintains that slaves are within the contemplation of the Constitution of the United States, property; that slaves are property in the same sense that horses, sheep, and swine are property; that the old doctrine that slavery is a creature of local law is false; that the right of the slaveholder to his slave does not depend upon the local law, but is secured wherever the Constitution of the United States extends; that Congress has no right to prohibit slavery anywhere; that slavery may go in safety anywhere under the star-spangled banner; that colored persons of African descent have no rights that white men are bound to respect; that colored men of African descent are not and cannot be citizens of the United States.

You will readily ask me how I am affected by this devilish decision — this judicial incarnation of wolfishness? My answer is, and no thanks to the slaveholding wing of the Supreme Court, my hopes were never brighter than now. I have no fear that the National Conscience will be put to sleep by such an open, glaring, and scandalous tissue of lies as that decision is, and has been, over and over, shown to be. The Supreme Court of the United States is not the only power in this world. It is very great, but the Supreme Court of the Almighty is greater. Judge Taney can do many things, but he cannot perform impossibilities. He cannot bale out the ocean, annihilate the firm old earth, or pluck the silvery star of liberty from our Northern sky. He may decide, and decide again; but he cannot reverse the decision of the Most High. He cannot change

the essential nature of things — making evil good, and good evil. Happily for the whole human family, their rights have been defined, declared, and decided in a court higher than the Supreme Court.