We must confess that, although we were somewhat prepared to see a majority of the judges of the Supreme Court, in their subserviency to the slave interest, not only prostitute their judicial powers by expressing extra-judicial Pro-Slavery opinions, but also determine this point actually decided by them in direct contradiction to their own prior opinions and to the well-settled law of Missouri, yet we are very much surprised to see the gentlemen who are the authors of the treatise in the *Law Reporter* sustain this position of the Pro-Slavery majority of the court, and disagree entirely with Judges McLean and Curtis. We feel bound to believe that the authors have been influenced by no other than a legal view of the case, but we do not perceive how, with their eminent ability and discrimination as lawyers, and unbiassed by sectional prejudice, they could have concluded that upon this point Judges McLean and Curtis were wrong, and should have followed the decisions of the Missouri court, and declared Dred Scott a slave. It seems to *us* clear, upon principle and authority, that the dissenting judges, McLean and Curtis, were right, and that the decision of the Supreme Court of Missouri, declaring Dred Scott a slave, was, under the circumstances, no more to be regarded as conclusive upon the Supreme Court of the United States, than a Pro-Slavery stump speech of David R. Atchison. We have no time within the limits of this article to discuss the question at length, but we will briefly state our positions, which are simply those of Curtis and McLean.

The Supreme Court of Missouri, from the beginning of the Government of that State, decided that a slave taken into free territory under the circumstances of Dred Scott, and returned like him to Missouri, was entitled to his freedom in the courts of Missouri. This principle was settled by a long series of well-adjudicated decisions. In 1852, in the case of Dred Scott, the same court overruled and destroyed all its previous well-settled law, declared the laws of Illinois and the Missouri Compromise hostile to the policy of Slavery, and laws which Missouri courts would not carry into effect; and they declare Dred Scott a slave. Referring to the fact that this decision overrules and nullifies all its previous decisions, the court say that times have changed; that it does not behoove the state of Missouri to countenance any measure which may gratify the spirit of opposition to Slavery, and that they will not go to the people of the North to learn either law, morality, or religion, on the subject. Mr. Justice Gamble, however, dissents from the decision, shows that, by the fully-settled law of Missouri, Dred Scott is free, and declares, that although times and public opinion may have changed, principles have not and do not change, and are the only safe and immutable basis of judicial decisions.

It is this opinion of the majority of the Supreme Court of Missouri, that the majority Judges of the Supreme Court of the United States, and the reviewers, believe the United States courts were bound to follow, and declare Dred Scott a slave. We dissent entirely from any such position. The reviewers admit that it is the recent doctrine of the Supreme Court to refuse to follow the decisions of the State courts, if opposed to former decisions of the same court, but they say that the decision of the Dred Scott case is a "return to the older and sounder doctrine." The decisions, however, relied upon to establish this "older and sounder doctrine" do not warrant at all the conclusion arrived at by the reviewers. The decision cited is that of Green *v.* Neal, 6 Peters, 292, which merely decides that the Supreme Court will change its construction of State laws, when the early decisions of the State courts have been overruled, and the law established differently, by a "well-settled series of decisions;" and the court expressly say, in this very case, "a reference is here made not to a single adjudication, but to a series of decisions which shall settle the rule." And this is a statement of the law made by the Supreme Court, Judge Grier delivering the opinion, in the case of Pease *v.* Peck, decided in 1855, where he says: "When the decisions of the State court are not consistent, we do not feel bound to follow the last, if it is contrary to our own convictions; and much more is this the case where, after a long course of consistent decisions, some new light suddenly springs up, or an excited public opinion has elicited new doctrines, subversive of former safe precedent."

It is upon the above principles, which have heretofore been enunciated by the Supreme Court, that Judges McLean and Curtis rest, and it is upon them that we ground our clear opinion, because we have no doubt, that even if the Supreme Court of the United States, in a question of this kind, were bound to follow the decisions of the State courts, it was clearly obliged to adopt the "well-settled principles" of the law of Missouri shown in the dissenting opinion of Mr. Justice Gamble to be established by a "series of decisions," and not to follow the "new light" or the "excited public opinion" which produced the "single adjudication" of the majority of the Missouri court, who proceed upon avowedly political grounds, in direct defiance of the previous law of the State, and whose opinion is an extreme and reckless Pro-Slavery document.

There is yet another reason why the Supreme Court were not bound to consider conclusive upon them the judgment of the Missouri court; which is that stated by Mr. Justice McLean, that the decision in Missouri denied Dred Scott a right claimed by him under a law of the United States, and held such law unconstitutional. By the language of the Constitution and of the United States Judiciary act, every such case is expressly made subject to revision in the courts of the United States; and, with Justice McLean, we deem this doctrine clearly conclusive against the position of the majority judges.

The only attempt made by the reviewers to meet this argument is by asserting, that if the determination of the political and social condition of the inhabitants of a State depends upon the construction of a law of Congress, then the construction of such United States law is as much within the exclusive province of the State courts as one of its own laws. It is sufficient to say to this position, that it finds no authority in any decision, and is in express violation of the clear language of the Constitution and Judiciary act of the United States. There is also this further fact, that the Supreme Court of Missouri in this case refused to enforce the Missouri Compromise enactment prohibiting Slavery, on the express ground that the United States are capable of enforcing their own laws; and then we have this singular position of our reviewers, that the courts of Missouri decline to enforce a law because it is the province of the United States courts to enforce it, and the United States courts refuse to enforce it because it is the exclusive province of the courts of Missouri to determine whether it shall be enforced. We cannot assent to any such doctrine.

In closing this article, we express an entire concurrence in the opinions of the dissenting Justices, McLean and Curtis, believing, with the reviewers, that, as they passed upon no point not necessary to the decision at which they thought the Court should arrive, their opinions are to be considered as of more judicial authority than those of the other Judges, whose extra-judicial statements, that negroes cannot be citizens, that the Missouri Compromise act was unconstitutional, and other Pro-Slavery intimations, are not entitled in any degree to be respected as the law of the land, but are the mere individual opinions of the persons uttering them, and are entitled to be disregarded, denied, and combated, by every citizen in the land, until the Supreme Court of the United States is released from the grasp of the Slave Power, and the true constitutional doctrines of our early Judges are again re-established as the popular sentiment of the country, and as the individual opinions of the Judges of the courts.

From the Concord (N. H.) Independent Democrat, July 16.

THE CASE OF DRED SCOTT.

The *Monthly Law Reporter* for June is entirely occupied by a long, elaborate, and masterly article, upon the decision of the Supreme Court of the United States in the case of Dred Scott. This article is understood to be the joint production of John Lowell, Esq., the talented editor of the *Law Reporter*, and Horace Gray, jr., reporter of the decisions of the Massachusetts courts; and the accurate analysis of the decision in question, and the careful preparation of the authorities cited in the article, are conclusive proofs of the great legal acumen and faithful industry of the authors. The principles necessary to the conclusion at which the Supreme Court arrived, and which were actually established by their decision, are carefully discriminated from those mere opinions expressed by some of the judges, which cannot be regarded as the opinions of the court, but only as the extra judicial individual statements of those judges expressing them: and after showing that the court did not decide that free negroes cannot be citizens, that the Missouri Compromise act is unconstitutional, that slaves may be carried into free States and held there, nor even that a slave carried into a free State and then returned to a slave State again has lost his right to freedom; but that the opinions of this nature advanced by the Pro-Slavery majority of the court were not necessary to the decisions of the court, and therefore not to be regarded as a part of the decision of the court, the reviewers state the point on which all of the judges, except Curtis and McLean, concurred, and which was in fact the only point decided by the court, as follows:

"A slave taken into free territory, and afterwards returning to a slave State and acquiring a residence there, if held by the highest courts of that State a slave, must be deemed a slave by the courts of the United States, and therefore not entitled to sue in such courts as a citizen."

The ground upon which the court proceeds in this position is, that the determination of the personal *status* or domestic and social condition of the inhabitants of a State is a subject within the exclusive control of the courts of the State, and, having been determined by them, the United States courts are bound to follow that determination, whatever may be their own opinion upon the facts; and that, in this case, Dred Scott having been held a slave by the Supreme Court of Missouri, he must be conclusively presumed a slave by the courts of the United States.