THE DRED SCOTT DECISION.

New York Evangelist (1830-1902); May 28, 1857; 28, 22; American Periodicals
pg. 0_1

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The report of the decision of the Supreme Court of the U. S. in the case of Dred Scott has just been published. It includes the opinions of all the judges, and makes quite a large octavo volume. The general desire of the public to have access to these opinions in their authorized form, can now be gratified. They certainly mark an epoch in the judicial history of this country. We fully agree with Judge Daniel, when he says, "that since the establishment of the several communities now constituting the States of this Confederacy, there never have been submitted to any tribunal within its limits, questions surpassing in importance those now claiming the consideration of this Court."

It is not our purpose to review this decision, or to give even a summary of the opinions of the judges. We have not the space to do justice to either. The questions involved are already familiar to the community, and to these we briefly refer.

The decision affirms "that a free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a 'citizen' within the meaning of the Constitution of the United States;" that "the only two clauses of the Constitution which point to this race, treat them as persons whom it was *morally lawful* to deal in as articles of property and to hold as slaves;" that the constitutional power of Congress over Territory of the United States does not extend so as to interfere with, or prohibit slavery, thus pronouncing the restriction upon the North-west Territory above the Ohio, as well as the Missouri Compromise, unconstitutional; that every citizen has a right to take his "property," of whatever description, with him into the Territories, thus securing the guardianship and sanction of the Federal Government to his claims as a slaveowner; and that removal from a slave to a free State with the consent of the master does not confer freedom on the slave, thus denying the municipal and local character of the institution of slavery, and giving to it, wherever the control of the United States' Government extends, a Federal sanction.

Such are some of the points judicially settled by the concurrent decision of a majority of the Supreme Court. We shall not discuss their constitutionality, but judging merely of the arguments for and against them, as contained in the volume before us, we must say that a more shallow and unfounded decision was never submitted to the approval of the country. The positions taken by the Chief Justice, and his colleagues who concurred with him, are utterly demolished by the clear and cogent logic of Judge Curtis and Judge McLean. Neither in the field of argument, of judicial learning or historical knowledge, are the former a match for their antagonists. The opinion of the Chief Justice, composed to a large extent of presumptions and inferences, loses all its plausibility, and is exposed in all its sophistry, under the terrible blows dealt out to it by the opinions of the dissenting judges. Viewed merely as a masterpiece of logic, the argument of Judge Curtis might almost rank with the immortal work of Chillingworth on the Roman Catholic Controversy. Apart from the subject discussed, there is a keen pleasure in witnessing the spectacle of so complete and thorough a refutation.

But all such considerations sink into insignificance before the grave and solemn aspect of a question which not only concerns the fundamental principles of our national policy, but the very rights and civil recognition of humanity itself. No blacker stain could be affixed to our national character than that which would follow the extension to our entire territorial domain, of the Federal sanction of what has hitherto been regarded by all our Courts and even by the Supreme Court itself, as a local and State institution, dependent for its existence upon municipal law. An acquiescence of more than sixty years in the early policy of the framers of the Constitution, is deliberately rejected at this late day as unconstitutional, and the whole force of the Federal Government is pledged to secure, in any part of the national domain, the inviolability of that system, whose barbarism excluded even the mention of its name from the Constitution itself. Slavery has now become, in spite of protest and remonstrance, a national institution. By the decision of the Supreme Court, *Free Soil*, as applied to our Territorial possessions, is an obsolete word. The presence of a singe slaveholder, to be maintained in his claim of right to "property" by the whole force, if need be, of the Federal Government, seals the character and perhaps doom of a whole Territory. It can no longer be said that we of the Free States have nothing to do with slavery. It is brought as it were to our own doors. It is thrust upon us. The Supreme Court of the nation, in whose character our own is involved, has become its judicial citadel. Our policy, as authoritatively declared by it, is one that throws the ægis of its protection and sanction around the system of slavery, so that every foot of Territory, already possessed or yet to be acquired, is doomed by prescription to its caprice. That futile plea that the right of the general Government to restrict or abolish slavery in the Territories, would likewise imply the right to establish it, is urged to show—what but this? that it is already established—that the accidental presence of a master and his slaves forestalls all interference, and arms his claim to "property" with the entire and unqualified sanction of the General Government.

In fitting consociation with this doctrine, is that other, authoritatively declared by the decision, that a free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a "citizen," within the meaning of the Constitution. Not that he may not hold office—not that he may not vote—not that he may not serve in the militia—for if this were all, like females and minors native-born, he might still be a citizen. But he may not sue—he may not claim justice, he may not be treated as an individual, a man, an entity, in the Federal Courts Ancestral servitude, African descent, color, these effectually and forever exclude him and his descendants. He is debarred from all recognition on the part of the Federal Government as any thing but a chattel. If he comes into Court it must be as a thing. Such is the conclusion of that relentless logic which makes slavery national; and if any thing could brand it with ineradicable disgrace, it is the postulate with which it starts, viz: that if free negroes were accounted citizens, "the Federal Government and its Courts would be bound to maintain and enforce," their rights! "Persons of the negro race, who were recognized as citizens in any one State of the Union," would have "the right to enter any other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction; to sojourn there as long as they pleased; to go where they pleased at any hour of day or night;" and thus with liberty of speech and act, "in the face of the subject race of the same color, both free and slaves, producing inevitably discontent and insubordination, and endangering the peace and safety of the State," (p. 417)

Falsehood creates its own terrible necessities. The immunity of wrong, inexorable as the fabled Minotaur, demands its guiltless victims. A more humiliating appeal than this decision makes to prejudice, to the cupidity and pride of a dominant race, to those feelings of contempt for degraded inferiors, which are only too congenial to the heart, we have never heard nor seen. All honor to Judge McLean, that ignoring the false issues of the decision, he dared to go back even of the *status* of the negro, and to utter in the presence of the Supreme Court these memorable words: "A slave is not a mere chattel. He bears the impress of his Maker, and is amenable to the laws of God and man, and he is destined to an endless existence."

The gross inconsistency of this decision with previous decisions of State courts, even in the Slave States, is ably pointed out by the dissenting Judges. Judge Mills, born and educated in a Slave State, speaking before the Court of Appeals of Kentucky, said, "Free people of color in all the States, are, it is believed, *quasi* citizens, or, at least, denizens. Although none of the States may allow them the privilege of office and suffrage, yet all other civil and conventional rights were evidently secured to them by the ordinance in question for the Government of Indiana. If these rights are vested in that, or any other portion of the United States, can it be compatible with the spirit of our confederated Government to deny their existence in any other part?"

Similar in tone is the language of Judge Gaston, of North Carolina: "According to the laws of this State, all human beings within it, who are not slaves, fall within one of the two classes. Whatever distinctions may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution, all free persons from within the dominions of the King of Great Britain, whatever their color or complexion, were native born British subjects. Slaves were not, in legal parlance, persons, but property. The moment the incapacity, the disqualification of Slavery was removed, they became persons, if native born British subjects. British subjects in North Carolina became North Carolina freemen. Slaves manumitted here, became freemen, and therefore, if born in North Carolina, are citizens." Judge McLean, after arraying an overwhelming mass of evidence to sustain his position, declares it his opinion "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." (Page 576)

And yet in spite of precedent, in spite of the Declaration of Independence, against which Judge Taney arrays the conduct of its framers, as nullifying all application of it to the African race; in spite of historical facts, abundantly cited by the dissenting Judges; in spite of the hitherto acknowledged policy of the Government to encourage freedom; in spite of the municipal character of the institution of Slavery, we have the decision of the Supreme Court, outlawing a race on the ground of color or descent, and declaring unconstitutional and void any enactment that shall presume to set a limit to the encroachments of a cruel and barbarous system, at war with the genius of our institutions, the spirit of our religion, and the claims of our common humanity.

We feel no disposition to characterize by strong language a position so new in our national history. The enormity of the decision renders weak all epithets which may be applied to it. Let it stand before the world in its naked deformity. Its features none can mistake. It tends to annihilate all the safeguards of freedom and free institutions. It claims the Federal Government as the exclusive ally of the slaveholder. It hurls a degraded race to still deeper degradation, and virtually denies, as it utterly ignores, even its humanity. If it be indeed constitutional, we feel that to the concurrent Judges—if in their hearts there yet lingered the sympathies of brotherhood with the poor and the weak, who had none to help them—it must have been like the gospel of Atheism to "Star-eyed Science," while they,

> "Sad as the angel for the good man's sin,
> Wept to record and blushed to give it in."

Such a reflection as this decision casts upon the character of our national Government, would once have been counted a foul libel. But that day is past, nor will political skill turn back the shadow on the dial. We have a higher hope in that Providence whose currents are not all lost in the eddies of human opinion. The very aggressions and restless endeavors of an unjust system betray its conscious insecurity. Meanwhile we cling calmly to that faith which teaches us to recognize the heavenly birthright of those who are denied a citizenship on earth, and even when Supreme Courts ignore the just claims of a whole people, we feel that "He that is higher than the highest" still regards the wants and woes, the rights and wrongs, of an oppressed and unhappy race.