FRIENDS' INTELLIGENCER.

PHILADELPHIA, THIRD MONTH 28, 1857.

We have not alluded to the case of Dred Scott, because, at the time this article was written, the opinion of Chief Justice Taney of the Supreme Court has not been published, it being understood that it is retained until the arguments addressed by the minority can be answered. It is probable some of the points upon which a majority of the Court appear to have agreed, may be somewhat modified, but the fact that the slave power is gradually, but surely extending itself, however humiliating the confession, cannot be doubted. Ever since the so-called Compromise of 1850, a system of measures has been pursued, which, if continued, may introduce by law slavery into the free states, and fasten upon us a system which our education and humanity alike testify against.

We have often before called attention to these aggressions of the slave power, and it may appear like a "thrice told tale;" but a periodical devoted to the interests of the Society of Friends would not be true to its position, if it did not upon every occasion like the present utter a solemn protest against this complicated system of iniquity.

Out of the nine judges of the Supreme Court, five are understood to be slaveholders, and two others from the free states have joined in affirming the decision of the majority.

Judge McLean of Ohio and Judge Curtis of Massachusetts have given adverse opinions, which are too elaborate for general publication. As they will be extensively circulated, such as are interested in examining the grounds assumed can procure and read for themselves. It is probable we shall again allude to this subject, but in the mean time we would refer to an abstract from one of the papers.

THE CASE OF DRED SCOTT.

The recent opinion of the majority of the Justices of the Supreme Court of the United States, in the case of SCOTT *vs.* SANFORD, has filled all persons of calm and conservative views with regret and alarm.

There is every reason to believe that this case got into the Supreme Court *collusively*. Dred Scott is a poor, ignorant negro slave in Missouri. It is not possible that *he* has the opportunity or the means to prosecute a protracted and expensive litigation up to the highest Court in the land. When the case came near argument *there was no counsel to represent* Dred Scott; but a Boston lawyer was procured on the spur of the occasion, by some strangers to Dred, who were interested in his favor.

Dred Scott, originally a slave in Missouri, was taken by his owner, Doctor Emerson, to the free State of Illinois, where master and slave resided two years. Then Doctor Emerson took Dred to Fort Snelling, in that part of Missouri Territory where the Act of 1820 prohibited slavery. At Fort Snelling, Dred was married to a colored woman who had also been brought from Missouri to that post, and who resided there with her owner. About that time, and at Fort Snelling, Dred and his wife were sold to Mr. Sanford, the defendant in this case. After a lengthened absence, Dred and his family were taken back into Missouri, by their alleged owner. In Missouri Dred sued for the freedom of himself and family. The Supreme Court of Missouri decided against Dred's claim. He then sued Sanford, who is a citizen of New York, in the Circuit Court of the United States, was cast there, and took his writ of error to the Supreme Court, whose decision finally adjudges him to remediless bondage.

Upon this state of facts, the first point assumed by the majority Judges is that *no person of African descent can sue in any United States Court!* The retrograde barbarism of such a dogma is painfully obvious. Negroes and mulattoes may be an inferior race—they may be too ignorant and uncivilized to be entrusted with *all* the franchises of citizenship—it may be proper to keep them under tutelage or restraint—but it is *monstrous* that the Courts of a nation professing regard for common right and fairness should exclude the humblest and meanest inhabitant from the poor privilege of sueing for ordinary justice. To exclude persons from the Courts because they are not citizens, would shut the gates of justice not only against negroes, but against minors, aliens and women. But the opinion of the majority, in the very vein of a quasi-Brahminical caste exclusiveness, reduces the African race, bond or free, to the condition of wretched Pariahs, makes all rights depend, not on the possession of manhood, but on the color of the skin, and shocks the moral sense of every civilized being with the revolting declaration that "*negroes have no rights which white men are bound to respect,*" and are not entitled, under the Constitution, "*to be ever thought of or spoken of except as property.*"

Upon the baseless and absurd assumption that the Constitution regards men of African descent as mere property, and not as persons, the majority of the Court build the novel dogma that slaves can be held like any other property by *mere virtue of the Constitution*. This idea was first broached by John C. Calhoun, and was generally scouted, at the time, as a gross heresy. And so it is; unless all the great writers on the Law of Nations, and on Civil and Common law, and all the previous decisions of every respectable Court in this country, and in the civilized world, are wholly in error. For every one of these authorities, for centuries back, has explicitly held that slavery is the mere creature of positive law; that it cannot exist a moment without positive law; that it cannot exist merely by being not prohibited, but only by explicit and special establishment; that a slave is not property *naturally*, but only technically and legally, by virtue of specific municipal law. Every tyro in jurisprudence is aware that these principles are primary and elementary. It follows, then, that a slave is *not* property, like a horse or a wagon. For these are owned by virtue of the law of *nature* and *nations*, and of *common right*; whereas, a slave is owned, as all the jurists say, *against* natural right, and only by force of local law. These simple and universal truths were *axioms*, as every school-boy knows, with our Fathers who framed the Constitution; and every school-boy knows, too, that while the Fathers were careful to leave the States perfectly free to dispose of slavery as they saw fit, they were equally careful to avoid establishing or recognising property in man under any mere Federal jurisdiction. Unless, therefore, the people of a Territory choose to establish slavery, or at least to give it special allowance, a human being cannot be held as a slave by any force of the United States Constitution. To affirm the contrary is to say that a Virginia or a South Carolina slaveholder carries into Kansas or Minnesota, not only his family and his horses, but also the *local laws of his own State*.

Dred Scott was taken by his master into the Free State of Illinois *to reside*, and they *did* reside there for two years. Now no principle of civil, common and international law is more clearly settled by a long succession of illustrious authorities and precedents than this, that as slavery is the mere creature of local law, so, if a master voluntarily takes his slave into a State where slavery is prohibited, with the intent of residing there, the very act works emancipation. And yet, in spite of the facts, and in contempt of the clearest law, the majority Judges say that Dred is a slave! Some of them argue that Dred waived his freedom by going back to Missouri. But he cannot be supposed to have gone back voluntarily, for a *slave* has no volition; and, if he did, no man can make himself or his offspring slaves by contract, either express or implied.

The majority of the Court go so far as to declare that the Ordinance of 1789 and the Missouri Prohibition were unconstitutional. Now the enactment of these laws may or not have been expedient, their repeal may have been proper or improper; but the majority Judges assume a tremendous responsibility in venturing to pronounce such enactments unconstitutional and invalid. The Ordinance was passed in a Congress which embraced Madison, by a unanimous vote, and was signed by Washington. Similar provisions have been enacted by nearly every Congress, and signed and approved by every President down to President Pierce. The Missouri Prohibition was declared Constitutional by Monroe and his Cabinet, one of whom was John C. Calhoun. The Supreme Court, over and over, have expressly recognised the validity of these acts of legislation. Judge Curtis's references to the previous action of the General Government, from the formation of the Constitution until recent times, is complete, clear and absolutely crushing. Every President, every Cabinet Secretary, every Official, every Congressman, every Statesman, every Politician, every State, every Court, every Judge, and every Chief Justice until recently, has unhesitatingly granted that these acts were Constitutional. This innovating decision of yesterday imputes stupid misconception and usurpation of power to Presidents like Washington, Monroe, and Jackson, to statesmen like Jefferson, Macon, Madison, Silas Wright and Henry Clay, to lawyers like Pinkney, Binney and Webster, to Judges like Gaston, Kent, Story and Marshall. This innovating decision carries no moral force, it is extrajudicial, gratuitous, unprecedented and illegal. The good sense of the just and freedom-loving people of the United States will surely have it *reversed.*