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pg. 42

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This important case, involving questions in respect to the citizenship of colored persons, and the constitutionality of the Ordinance of 1787 and of the Missouri Compromise, was decided in the Supreme Court, Friday, March 5th. Chief Justice Taney read an elaborate opinion, embracing the views of the majority of the Court—Justices Taney, Wayne, Daniel, Grier, and Campbell. Judge Catron delivered an opinion of his own, differing somewhat from that of the majority in regard to the power of the Federal Government over Territories; Judge Nelson also submitted his views, in which the question concerning the validity of the Ordinance of 1787 and the Missouri Compromise was evaded. The former agreed with the majority in regard to the alleged unconstitutionality of the Missouri Compromise; and the latter held that every State has an absolute right to determine the *status* of its own inhabitants; that, according to the laws of Missouri, as declared by its Supreme Court, a slave in that State, having been carried to a free State, and having then been returned to Missouri, is still a slave; and, therefore, Dred Scott, having been carried back to Missouri, after a temporary sojourn in Illinois, was not discharged from his servile condition.

The following day, very able opinions were submitted by Judges McLean and Curtis, dissenting from the opinions of a majority of the Court, and sustaining views, which, until lately, have prevailed throughout the country, and influenced the legislation of Congress.

The Case.

The following brief statement, quoted from the admirable argument of Montgomery Blair, counsel for the plaintiff, will put our readers in possession of the facts of the case:

"This is a suit brought to try the right to freedom of the plaintiff and his wife Harriet, and his children Eliza and Lizzie. It was originally brought against the administratratrix of Dr. Emerson, in the Circuit Court of St. Louis county, Missouri, where the plaintiff recovered judgment; but on appeal to the Supreme Court of the State, a majority of that court, at the March term of 1852, reversed the judgment; when the cause was remanded, it was dismissed, and this suit, which is an action of trespass for false imprisonment, was brought in the Circuit Court of the United States for the district of Missouri, by the plaintiff, as a 'citizen' of that State, against the defendant, a 'citizen of the State of New York, who had purchased him and his family since the comment of the suit in the State court.

"The defendant denied, by plea in abatement, the jurisdiction of the Circuit Court of the United States, on the ground that the plaintiff 'is a negro of African descent, his ancestors were of pure African blood, and were brought into this country and sold as slaves,' and therefore the plaintiff 'is not a citizen of the State of Missouri.' To this plea the plaintiff demurred, and the court sustained the demurrer.

"Thereupon, the defendant pleaded over, and justified the trespass on the ground that the plaintiff and his family were his negro slaves; and a statement of facts, agreed to by both parties, was read in evidence, as follows: 'In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year (1834) said Dr. Emerson took the plaintiff from the State of Missouri to the military post at Rock Island, in the State of Illinois, and held him there as a slave until the month of April, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situated on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of 36° 30′ north, and north of the State of Missouri. Said Dr Emerson held the plaintiff in slavery at said Fort Snelling, until the year 1838.

"'In the year 1835, Harriet (who is named in the second count of the plaintiff's declaration) was the slave of Major Taliaferro, who belonged to the army of the United States. In that year, (1835,) said Major Taliaferro took said Harriet to said Fort Snelling, a military post situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at Fort Snelling unto said Dr. Emerson, hereinbefore named; and said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

"'In the year 1836, the plaintiff and said Harriet, at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the State of Missouri, and upon the Mississippi river; Lizzie is about seven years old, and was born in the State of Missouri, at the military post called Jefferson Barracks.

"'In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet, and their said daughter Eliza, from said Fort Snelling to the State of Missouri, where they have ever since resided.

"'Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza and Lizzie, to the defendant, as slaves, and the defendant claimed to hold each of them as slaves.

"'At the times mentioned in the plaintiff's declaration, the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them; doing in this respect, however, no more than what he might lawfully do if they were of right his slaves at such times.'

"On these facts, the court instructed the jury to find for the defendants. The plaintiff excepted to the instructions. The jury found a verdict for defendant, and judgment was rendered accordingly, on the 16th May, 1854. On the 16th a writ of error issued, and the case was brought up to the December term of 1854 of this court."

The Decision.

Friday, March 6th, 1857, Chief Justice Taney delivered the opinion of the Court, "reversing the judgment of the Circuit Court of the United States for the District of Missouri, for the want of jurisdiction in that Court, and remanding the cause, with directions to dismiss the case, for want of jurisdiction in that Court."

In this opinion, we learn, Justices Wayne, Daniel, Grier, and Campbell, concurred, constituting, with the Chief Justice, the majority of the Court.

Justices McLean, Catron, Nelson, and Curtis, concurred in the opinion that the Circuit Court had jurisdiction of the case.

One Point Alone Decided—Misconception Corrected.

The statement has already gone out to the Public, that the Supreme Court decided the questions concerning the validity of the Ordinance of 1787, the Power of Congress over Territory, the Powers of Territorial Governments, and the constitutionality of the Missouri Compromise; but this is a grave misconception. The single decision made by the Court was, that the Circuit Court had no jurisdiction of the case, and it therefore reversed the judgment of said Court, remanded the cause, and directed the Circuit Court to dismiss the case. This decision, according to its own rules, precluded it from deciding any question arising upon the merits of the case, inasmuch as it refused to entertain it. If I thought, said Justice Catron, that this Court was without jurisdiction of this case, I should go no further, as I hold that a Court having no power to decide the case, or to deal with it in any way further than to docket and dismiss it, has no right to discuss the merits, as no jurisdiction exists to give a judgment on them. But, as I hold that there is jurisdiction to decide the merits, I will proceed to examine the case.

Justice Curtis took a similar view, and announced, if we understood him correctly, that he should not hold the opinions expressed by the Court, on the issues arising out of the case and its merits, as decisions upon them. And such, we understand, is the position of Justice McLean.

It follows, that the editorial statement in the *National Intelligencer*, below, assuming that several important points have been decided, is entirely erroneous.

"The opinion of the Supreme Court in the case of *Scott vs. Sanford*, was delivered yesterday by Chief Justice Taney. It was a full and elaborate statement of the views of the Court, and decides the following all-important points:

"1. Negroes, whether slaves or free—that is, men of the African race—are not citizens of the United States by the Constitution.

"2. The Ordinance of 1787 had no independent constitutional force or legal effect subsequently to the adoption of the Constitution, and could not operate of itself to confer freedom or citizenship within the Northwest Territory on negroes not citizens by the Constitution.

"3 The provision of the act of 1820, commonly called the Missouri Compromise, in so far as it undertook to exclude negro Slavery from and communicate freedom and citizenship to negroes in the northern part of the Louisiana cession, was a legislative act exceeding the powers of Congress, and void and of no legal effect to that end.

"In deciding these main points, the Supreme Court determined also the following incidental points:

"1. The expression 'territory and other property' of the Union in the Constitution applies in *terms* only to such territory as the Union possessed at the time of the adoption of the Constitution.

"2. The rights of citizens of the United States emigrating into any Federal territory, and the power of the Federal Government there, depend on the general provisions of the Constitution, which define in this, as in all other respects, the powers of Congress.

"3. As Congress does not possess power itself to make enactments relative to the persons or property of citizens of the United States in Federal territory, other than such as the Constitution confers, so it cannot constitutionally delegate any such powers to a Territorial Government organized by it under the Constitution.

"4. The legal condition of a slave in the State of Missouri is not affected by the temporary sojourn of such slave in any other State, but on his return his condition still depends on the laws of Missouri."

The simple question *decided*, was a *question of jurisdiction:* the elaborate argument read by Chief Justice Taney, merely presented the opinions of the majority of the Court on questions not before the Court for decision, and the decision of which was precluded by the declaration of a want of jurisdiction in the premises. So far, then, as the points named are concerned, they are still undecided by Judicial Authority, the individual opinions of Justice Taney having no more authority in settling what is Law than the individual opinions of Justice McLean.

The decision of the Court reversing the judgment of the Circuit Court for want of jurisdiction is obligatory, because a majority of the Justices concurred in it—but, how many concurred in all the opinions expressed by the Chief Justice, or in the reasoning by which he attempted to support them, does not appear. Judge Grier concurred only in some of the positions taken: Judge Catron, as we shall see, differed on important points: the other Judges of the majority, we learn, have prepared separate opinions. The *Intelligencer*, therefore, is again in error, in saying, without qualification, that "the conclusions stated by the Chief Justice were concurred in by six Justices of the Court."

With these preliminary explanations, to which we solicit the attention of our brethren of the Press, so that they may not give undue importance and weight to mere expressions of opinion by members of the Supreme Court, we proceed to speak more particularly of the views submitted by them.

Chief Justice Taney.

1. In regard to citizenship, the Chief Justice held that negroes and descendants of negroes in this country were not citizens of the Political community, associated under the Articles of Confederation or under the Constitution at the time of its formation. That "unhappy race" was universally regarded throughout the civilized world, as property, subject to be bought and sold, as merchandise, not constituting an integral element of society. It was in view of this prevailing sentiment, that the Congress that promulgated the Declaration of Independence announced, "we hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights," &c.—a declaration not designed to apply to that "unhappy race" so universally degraded. The same sentiment prevailed when the Constitution was formed, the phraseolgy in the Preamble of which, "we, the people of the United States," did not include a class of persons universally recognised as subjects of property. True, there were a few free persons belonging to the race, but not enough to change the character by which it was universally recognised. The language of the Declaration and of the Constitution of the United States must be interpreted in the light of the Public Opinion of that day, the framers of both instruments sharing themselves in that Opinion.

This is a brief statement of the reasoning (?) by which the learned Judge reached the conclusion that negroes and their descendants are not citizens of the Political Community, known as "the United States."

As the Chief Justice soon made it plain to every listener that, in his opinion, Congress has no power over the subject of Slavery in the Territories, and that slaves are regarded as property by the Federal Constitution, we were not surprised that, in speaking of slaves, he never referred to them in the decorous language of the Constitution, but always characterized them broadly, as property, subjects of merchandise. This position being taken, as if it had never been contested, and was not a question for argument, and being constantly reiterated in every form of phraseology, the effect upon the minds of those not careful to scrutinize mere assumptions, must have been to bring them to the stand point of the Judge, and thereby constrain them to concurrence in the views then naturally arising.

2. There being a foregone conclusion against the power of Congress to prohibit Slavery in Territories, it became necessary to meet the argument founded upon the passage of the Ordinance of 1787. The States, under the Articles of Confederation, were severally sovereign and independent, associated rather by a League, than by a Common Government. They were represented as States alone in Congress. Virginia owned the Northwest Territory, and for the purpose of defraying the expenses growing out of the war of the Revolution, ceded sovereignty and proprietorship to the United States. All the rights she had, vested in the States in Congress assembled, and as she had the right to prohibit Slavery in said Territory, that right was transferred with the rest. The States, in their sovereign capacity, passed the Ordinance of 1787, and it was valid until the adoption of the new Constitution and the advent of the new Government. The framers of the new Constitution, with express reference to this Territory, inserted a provison enabling Congress to provide all needful rules and regulations for the disposition of the territory of the United States or other property. This provision applied alone to the Northwest Territory, does not apply to any other since acquired, and cannot be construed into a grant of power to Congress to legislate in any other. Besides, the grant was limited to such regulations as might be necessary to the disposition of the lands of the territory in such a way as to carry out the original purpose of the cession. Some government was *necessary*, and as the Ordinance had been established by the Sovereign States in their Sovereign capacity, the first Congress, containing Representatives from those States, simply recognised the Ordinance.

This, as nearly as we can give it, was the substance of the statement of the Chief Justice on this point. The practical inference was, that the action of Congress was merely exceptional, and cannot be quoted as a precedent for a similar exercise of power in any other case.

3. Whatever power Congress has to acquire Territory, or to provide it temporary government, was incident to the power expressly granted in the Constitution to admit new States. It cannot acquire Territory for the purpose of governing it, as a colony, or a province—the purpose is, and must be, to form it into a State, and only such legislation is authorized as is necessary to that end.

It may govern through a council, or by authorizing the People to govern themselves—but it is not absolute, nor can it confer absolute power. It cannot create an establishment of religion, pass laws abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition for a redress of grievances—nor can violate the rights of property. The citizen, the Constitution, the Government, go into the Territory together—the citizen, with all his rights of person and property, the Constitution spreading its guaranties over them, the Federal Government, bound to enforce them for their protection.

The right of property in slaves is equally secured by the Constitution with other property rights. No matter what it may be considered by the Law of Nations, that Law cannot come between the citizen holding slaves, and the Federal Constitution, which recognises and guaranties them as property. And if the Federal Government is restrained from legislating so as to violate it, much more any Territorial Government emanating from its will. Until the Territory becomes a State, the right of property in slaves therein cannot be interfered with.

4. It follows that the law of Congress prohibiting Slavery north of 36° 30′, commonly known as the Missouri Compromise, was null and void, because it transcended the powers of Congress, and was a violation of the rights of property.

Remarks.

We need hardly say that the opinions of Chief Justice Taney sanction all the dogmas put forth at any time by the most extreme advocates of Slavery. They recognise Slavery as supreme, Freedom as subordinate—Slavery as a fundamental Law of the Union—Property in Man as a fundamental Idea of the Constitution.

They deny the Power of Congress, and they deny the power of any Territorial Government to interfere with the right to hold slaves in a Territory, while they assert the duty of the Federal Government to interpose against any obstruction sought to be thrown in the way of its exercise.

Thank God, these Opinions are not yet Law, and let us hope, for the honor, and peace, and well-being of the Country, that they may never become Law. As it is, their utterance by the Chief Justice, with the endorsement, it is believed, of a majority of the Bench, has given a blow to the reputation of the Court, from which it cannot recover so long as it shall remain as now constituted. The legal mind of the country will not assent to novel and monstrous doctrines, unsustained by argument or authority; and the People will revolt at views repugnant to Humanity and the *great principles* of Christian civilization.

Judge Nelson.

Judge Nelson next read a paper, in which he discussed the question, whether Dred Scott was exempt from Slavery in Missouri, after having been returned from Illinois, whither he had been carried by his master. He argued the negative, on the ground that a State has the right to determine for itself the *status* of its inhabitants, and is not bound to recognise any foreign jurisdiction any further than it pleases. Under the legislation of Illinois, Dred Scott, sojourning in that State, might become free—but, if returned to Missouri, the servile condition might again attach to him, without detriment to the rights of Illinois—Missouri was not bound within her limits to give force to the Laws of Illinois operating on his *status*. Such was the decision of the Supreme Court of Missouri, and that decision was binding.

The questions relating to the Ordinance of 1787, the Power of Congress over Territory, and the Missouri Compromise, were not discussed by the Judge, and no opinion was expressed concerning them. So far as he, a Judge from the State of New York, was concerned, the views on those subjects which prevail in the free States, and which have determined to a great extent the legislation of the country since 1787, was left without a word in exposition or support.

Judge Catron.

Judge Catron followed with an Opinion, in which he announced his entire concurrence with Judge Nelson in relation to the particular point discussed by him.

He then examined the question, Did Dred Scott, his wife and child, acquire their freedom by sojourn in the territory north of 36° 30′, in virtue of the Missouri Compromise? He argued the negative, discussing in the course of his argument the whole question of the power of Congress over Territory. He held that the Ordinance of 1787, prohibiting Slavery, was within the power of the States enacting it—that, by the Federal Constitution, it became binding on the new Government, like the other engagements of the Confederation — that the third section of the fourth article of the Constitution, granting power to Congress to make all needful rules and regulations respecting territory, &c., did not apply alone to the territory northwest of the Ohio, but invests Congress with power to govern the Territories of the United States. It is due to myself, he remarked, to say that it is asking much of a judge, who has for nearly twenty years been exercising jurisdiction, from the Western Missouri line to the Rocky Mountains, and, on this understanding of the Constitution, inflicting the extreme penalty of death for crimes committed where the direct legislation of Congress was the only rule, to agree that he had been all the while acting in mistake, and as an usurper.

This remark doubtless was suggested by the novel assumption of Chief Justice Taney, that the third section of the fourth article of the Constitution had no application to any other than the Northwest Territory.

The Judge proceeded to say that the only question then was, as to the limit of the power to govern Territories. The Ordinance restrained it in relation to the Northwest Territory, so that Congress could not force Slavery therein. The deeds of cession of North Carolina and Georgia, in 1790 and 1802, providing against the prohibition of Slavery in the Territories ceded by them, restrained Congress from attempting to force Slavery out of them. The Treaty of 1803 with France, whereby we acquired Louisiana Territory, binding the United States to protect the liberty, property, and religion of the inhabitants—some of their most valuable property being slaves — limited the power of Congress, precluding it from the right to abolish Slavery anywhere in said Territory. For this reason, the act of Congress prohibiting Slavery in that part of the Territory lying north of 36° 30′ was in violation of treaty obligation, and therefore null and void. But, not confining himself to this view, he went on to argue that, by the Constitution, the slaveholder has the right to carry his slaves into any Territory of the United States, and to be protected therein. He sums up as follows:

My opinion is that the third article of the treaty of 1803, ceding Louisiana to the United States, stands protected by the Constitution, and cannot be repealed by Congress.

And, secondly, that the act of 1820, known as the Missouri Compromise, violates the most leading feature of the Constitution—a feature on which the Union depends, and which secures to the respective States and their citizens an entire equality of rights, privileges, and immunities.

For these reasons, I hold the compromise act to have been void; and, consequently, that the plaintiff, Scott, can claim no benefit under it.

Justices McLean and Curtis.

The next day, (Saturday,) dissenting opinions were read by Justices McLean and Curtis, the only two members of the Bench now maintaining the Law of Freedom. As judicial expositions of the Principles of the Constitution, of the Law of Nations, and the Common Law, bearing upon Human Rights, they stand unrivalled. On the subject of citizenship, particularly, Judge Curtis left nothing to be said. The misconceptions and mis-statements of Chief Justice Taney became manifest in the light of the historical facts he presented. We shall not attempt even a synopsis of his Opinion, as we heard only the part relating to citizenship. We were more fortunate in regard to Judge McLean, whose argument, it seemed to us, furnished a complete reply to the elaborate opinion of the Chief Justice.

He discussed the question under several heads.

1. The locality of Slavery as held in the Supreme Court, and in the Courts of the States.

Under this head, by a reference to the civil law, he showed that throughout Europe Slavery was limited to the locality where it was established by law; and that without an express compact, one nation would not deliver up an absconding slave to the citizen of another country.

He also showed that, by decision in the case of *Prigg vs.* the State of Pennsylvania, the Court held that Slavery was local, and could exist only by virtue of the local law. That if the Constitution had not required the rendition of fugitives from labor, every State might have manumitted every slave that entered a non-slaveholding State with impunity, as there was no principle in the law of nations which required the return of the slave.

2. The relation which the Federal Government bears to Slavery in the States.

Under this head he showed that Slavery was local, and under the control of State sovereignty, that the Federal Government had no action over it, except in regard to a surrender of fugitives from service or labor. That slaves were spoken of in the Constitution as persons, and not as property. That Congress could not regulate the slave trade among the States, and that the continuance of the slave trade twenty years after the adoption of the Constitution, was not a general measure, but in favor of such States as should think proper to encourage it.

And he referred to the remark of Mr. Madison, who was desirous that no word should be used in the Constitution which indicated there could be property in man.

3. The power of Congress to establish Territorial Governments, and to prohibit the introduction of Slavery therein.

Under this head he showed, by the proceedings of the Convention which framed the Constitution, that the necessity of a power to establish temporary Government, as initiatory to the establishment of State Governments, and to dispose of the public lands, was felt and acknowledged; that the sale of these lands was looked to for the payment of the Revolutionary debt. And that ample provision was made to establish Territorial Governments by the 3d section of the 4th article of the Constitution, which gave Congress power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States. That for sixty years this power was universally admitted by all Courts, Federal and State, and by all statesmen. And he vindicated and maintained the opinion of the Supreme Court in the case of the Atlantic Insurance Co. *vs.* Center, 1 Peters, 511.

4. Under this head he discussed the effect of taking slaves into a free State or Territory, and so holding them, where Slavery is prohibited.

He assented to the doctrine clearly announced in the case of Prigg *vs.* Pennsylvania, that Slavery could only exist in a State where it was established by law; and, consequently, if a slave be taken where it is not authorized, the master could not coerce the slave. And that where Slavery was prohibited, in Illinois and north of Missouri, if a slave were taken there by his master, and remained there in his service, he was free, under the decisions of the Supreme Court, and by numerous decisions by the Supreme Courts of the Southern States. These were cited largely, and relied on, as fully sustaining the ground of freedom, especially the decisions of the Supreme Court of Missouri. That for twenty-eight years the course of decision in that Court was uniformly in favor of the slave, until the case of Dred Scott came before it.

5. Whether the return of a slave, under the control of his master, after being entitled to his freedom, reduces him to his former condition.

Under this head he examined the decision of Lord Stowell, in the case of Grace, and numerous authorities of the slave States, all of which, except a few recent cases, hold that the return of the slave did not cause his former status to attach. This was uniformly the course of the decisions of the Supreme Court of Missouri for twenty-eight years, until it was changed against Dred Scott, avowedly by the majority of the Court, to check the "fell spirit of Anti-Slavery" in the free States.

In England, a slave could not be coerced by his master, although there was no express prohibition against Slavery; but it is not authorized. And he alleged, from the facts agreed to, that the return of Dred Scott was not voluntary, as the fact admitted was, "that he was removed by his master from Fort Snelling to Missouri," which shows that the slaves acted under the coercion of their masters, and not under their own volition.

6. Are the decisions of the Supreme Court of Missouri, on the questions before the Court, binding, within the rule adopted?

Under this head he showed that the Missouri Court refused to recognise the act of Congress or the Constitution of Illinois, under both of which Dred Scott claimed his freedom. That this being done, there was no case before the Court, or it was a case which had but one side. And he argued that such a case may not be followed by the Supreme Court. And he referred to a late decision of the Supreme Court, fully sustaining his refusal to follow the decision in the case of Dred Scott.

Both Justices, McLean and Curtis, took the position that, as the Court had refused to entertain jurisdiction of the case, its opinions on the questions arising on its merits were not decisive; that those questions still remain open for adjudication; that they would not therefore consider them settled.