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Dred Scott v. Sandford

A Brief History with Documents

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And if a prohibition of slavery in a Territory in 1820 violated this principle of *Magna Charta*, the ordinance of 1787 also violated it; and what power had, I do not say the Congress of the Confederation alone, but the Legislature of Virginia, or the Legislature of any or all the States of the Confederacy, to consent to such a violation? . . . I think I may at least say, if the Congress did then violate *Magna Charta* by the ordinance, no one discovered that violation. Besides, if the prohibition upon all persons . . . to bring slaves into a Territory, and a declaration that if brought they shall be free, deprives citizens of their property without due process of law, what shall we say of the legislation of many of the slaveholding States which have enacted the same prohibition? As early as October, 1778, a law was passed in Virginia, that thereafter no slave should be imported into that Commonwealth by sea or by land, and that every slave who should be imported should become free. A citizen of Virginia purchased in Maryland a slave who belonged to another citizen of Virginia, and removed with the slave to Virginia. The slave sued for her freedom, and recovered it; as may be seen in Wilson *v.* Isabel, (Va., 1805) . . . I am not aware that such laws, though they exist in many States, were ever supposed to be in conflict with the principle of *Magna Charta*. . . . It was certainly understood by the Convention which framed the Constitution, and has been so understood ever since, that, under the power to regulate commerce, Congress could prohibit the importation of slaves; and the exercise of the power was restrained till 1808. A citizen of the United States owns slaves in Cuba, and brings them to the United States, where they are set free by the legislation of Congress. Does this legislation deprive him of his property without due process of law? If so, what becomes of the laws prohibiting the slave trade? If not, how can a similar regulation respecting a Territory violate the fifth amendment of the Constitution? . . .

In my opinion, the judgment of the Circuit Court should be reversed, and the cause remanded for a new trial.

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Newspaper Responses to the *Dred Scott* Decision

In the nineteenth century, newspapers were rarely politically neutral. They were usually affiliated with a political party, or even a wing of a political party. For example, the Washington *Union* was the unofficial voice of the Buchanan administration and the proslavery wing of the Democratic Party. Similarly, the New York *Tribune*, edited by the famous publisher-politician Horace Greeley, spoke for the antislavery wing of the new Republican Party. Newspapers also actively participated in political debates, and editors debated one another in print. The editorials and articles from the newspapers reprinted in this chapter offer a wide variety of responses to *Dred Scott*.

VARIETIES OF SOUTHERN PROSLAVERY OPINION

In the 1850s virtually all southern leaders supported slavery and "southern rights." They did not all agree, however, on the best way to protect the South and its "peculiar institution," as both northerners and southerners referred to slavery.

Some southerners favored states rights, arguing that the South, with its distinct culture and identity, had to be free of federal interference. The end result of this argument would be secession and the creation of an independent southern nation. An editorial in the Charleston *Mercury* (see p. 130) illustrates this position. Other southern papers, like the Richmond *Enquirer*, advocate states' rights with strong support for the national union and belief that the national government should protect slavery. The more moderate New Orleans *Picayune*, which was affiliated with the Whig Party, understands that the southern way of life requires the economic and military support of the North. Southern moderates saw no great need to create an indepen-

dent southern nation. After the election of Lincoln all three of these papers supported secession.

The sweeping opinion in *Dred Scott* pleased southern whites of all political stripes, although the responses varied. The three articles reprinted here reflect the fears and hopes of southerners. Pleased about the result of the case, some southerners nevertheless saw clouds on the horizon.

The Richmond *Enquirer* gleefully praises the decision, seeing it as a nationalist opinion that ends debate over slavery. Significantly, the Richmond paper takes the position that the South has won the constitutional struggle, thus implying that supporters of black rights and opponents of slavery are subversive to the American constitutional order.

The Charleston *Mercury,* which represents the most extreme southern nationalism, expresses surprise that the Supreme Court would so openly support the interests of the South and slavery. Even in the wake of this sweeping victory, the Charleston paper fears the political implications of a national discussion of slavery. The paper correctly predicts that the Republicans will use *Dred Scott* to consolidate their position in the North.

The more moderate New Orleans *Picayune* rejoices in Taney's opinion. Like the Charleston *Mercury,* the *Picayune* believes that the Republicans of the North will try to exploit the opinion. But the *Picayune* reminds its readers that the Court and the Constitution support the South. The *Picayune* also underscores the racism of proslavery thought by declaring that it would not "lament" denying free blacks any political rights, even in the North.

The debate among these papers is over the best way to protect slavery. The *Mercury* favors an approach that combines extreme states' rights ideas with eventual secession. The *Mercury* would have each state free to totally control its own institutions, but only in a nation made up of slave states. For the *Mercury* the United States, as then constituted, presents a constant threat to the South and slavery. The *Mercury* believes that southern rights and southern institutions can never be protected in the national Union and understands that if one Supreme Court decision can nationalize slavery and protect it, another decision might do the opposite. The *Enquirer* had long been a proponent of states' rights as a way of protecting slavery. However, in the *Dred Scott* decision, the Richmond paper sees the value of a more nationalist position. If the Constitution thoroughly protects slavery, then states' rights is not as necessary a political theory. The *Picayune*

sees *Dred Scott* as a vindication of its views that the South can safely remain within the Union. The New Orleans paper seems to believe that the debate over slavery in the territories is now over; and the South has won.

Both the *Mercury* and the *Picayune* refer to members of the Republican Party as "black Republicans." This phrase suggests the racial fears of southerners, who somehow believed that the Republicans would bring about black equality throughout the nation. Although many Republican leaders, such as Senators Salmon P. Chase of Ohio and Charles Sumner of Massachusetts, fervently believed in racial equality, the stated goal of the Republicans was neither racial equality nor even an end to slavery; rather, it was the more modest goal that slavery be prohibited from the western territories and that there be no new slave states admitted to the Union. Ironically, of course, after eleven slave states attempted to leave the nation in 1861, sparking the Civil War, the Republican Party became an advocate of racial equality and after the war southern blacks almost unanimously supported the Republican Party.

ENQUIRER (RICHMOND)

The Dred Scott *Case*

March 10, 1857

In anticipation of the definitive decision of the Supreme Court of the United States in the Dred Scott case, some two months or more ago, its adjudication was announced through a respectable proportion of the press, emanating, we do not now recollect precisely, whence or how; but, as the sequel shows, not from mere conjecture, or without reliable data, for it was then stated that seven of the nine judges constituting the court, agreed in the opinion that the Missouri Compromise was unconstitutional, and consequently, that the rights originating in it and under it, were even factitious and ineffective. And it will be seen by the authentic annunciation of the grave and deliberate decision of that august body, in another column, that what was rumor then is reality now.—Thus has a politico-legal question, involving others of deep import, been decided emphatically in favor of the advocates and sup-

porters of the Constitution and the Union, the equality of the States and the rights of the South, in contradistinction to and in repudiation of the diabolical doctrines inculcated by factionists and fanatics; and that too by a tribunal of jurists, as learned, impartial and unprejudiced as perhaps the world has ever seen. A prize, for which the athletes of the nation have often wrestled in the halls of Congress, has been awarded at last, by the proper umpire, to those who have justly won it. The *nation* has achieved a triumph, *sectionalism* has been rebuked, and abolitionism has been staggered and stunned. Another supporting pillar has been added to our institutions; the assailants of the South and enemies of the Union have been driven from their *point d'appui*;[1] a patriotic principle has been pronounced; a great national, conservative, union saving sentiment has been proclaimed. An adjudication of the constitutionality of the Missouri Compromise, in the *Dred Scott* case, inseparably embraced collateral questions of such character, as also to involve incidental issues, not unfrequently arising in the councils of the country, and which have ever proved, points of irreconcilable antagonism between the friends and enemies of the institutions of the South; all of which, it will be seen, have been unequivocally established in accordance with the sense of the Southern people. And thus it is, that reason and right, justice and truth, always triumph over passion and prejudice, ignorance and envy, when submitted to the deliberations of honest and able men: that the dross and the genuine metal are separated when the ore is accurately assayed.

MERCURY (CHARLESTON)

The Dred Scott *Case— Supreme Court on the Rights of the South*

April 2, 1857

The Supreme Court has never been thought the special guardian of State Rights and the interests of the South. With few honorable exceptions, as Judge Daniel, of [Virginia], and Judge Campbell, of Alabama, the most scrupulous sticklers for strict construction have

[1]Foundation or base.

quietly lapsed into extreme Federalism,[1] after their elevation to the Supreme Bench. And so it happened that in the general tenor of its decisions, as in special memorable cases, this august tribunal has shown itself inimical to the interests of the South and State Rights. Its judgment in the *Dred Scott* case comes, then, with the exaggerated effect of surprise; and everybody in the South is disposed to unite in the chorus of congratulation. And certainly it is not easy to overrate the importance of the principles propounded in that decision, in their relation to the constitutional rights of the South. They give to our claim to equality of privilege in the Confederacy,[2] the sanction of the deliberate judgment of the highest tribunal in the land. They show that in its most extreme demand the south contends only for its rights under the Constitution; and that we *ultras*,[3] as they stigmatise us, take no step in which we are not supported by the letter and spirit of the law. In the final conflict between Slavery and Abolitionism, which this very decision will precipitate rather than retard, the principles of the judgment in the Dred Scott case may be of some avail to the South in giving an appearance of justice and moderation to its position. Of these advantages the South is secure; but let us not abandon ourselves to the delirium of a premature triumph. The victory is not yet gained; and it is a question whether the decision may not add as much to the material strength of the North as it deducts from its moral power. Another such success as was achieved in the Kansas Nebraska act, and the South would have been undone—so hardly was the victory won, and so much of resentment and ferocious energy did it infuse into the ranks of the adversary. It seems as if the same consequence will follow from our recent triumph in the Supreme Court. The Abolitionists are not at all abashed or dismayed; on the contrary, they accept this repulse as another blow in the work of imparting compactness and strength to their organization, and, from the fire that consumes *Dred Scott*, they appear to anticipate a conflagration which will again set the popular sentiment of the North

[1]The *Mercury*, an extreme states' rights paper, was hostile to the idea of a strong central government, which it associated with the Federalist Party of the 1790s and the constitutional doctrine of John Marshall. In fact, none of the majority in the *Dred Scott* decision was remotely "Federalist" in his beliefs. The *Mercury* used the term to warn against the nationalist implication of Taney's decision.

[2]Southern nationalists often used the term *Confederacy* in referring to the United States, implying a loose union rather than the stronger "federal" union that the Constitution created.

[3]Extremists among southern nationalists, especially those who advocated secession or disunion.

in a blaze of indignation. They know well enough that the Supreme Court is infallible only in a technical sense; and that even its decision may be reversed by the vote of a popular majority. They remember that this same august tribunal, after elaborate argument, pronounced a National Bank to be constitutional, and that the people reversed the decision in the triumphant re-election of Andrew Jackson; and with this instructive example in their eye, they betray a resolution to contend for a like victory in the end. The Black Republican party will go into the canvass[4] of 1860, strengthened rather than discredited and weakened by the adverse judgment of the Supreme Court; and we might as well prepare for the struggle. At least, let not the South cherish the delusion that its cause is triumphant and its rights secure.

DAILY PICAYUNE (NEW ORLEANS)

Citizenship

March 21, 1857

The decision of the Supreme Court of the United States in the *Dred Scott* case is the theme of bitter comment in the anti-slavery journals of the North. There is enough in it, in fact, to overthrow their favorite theories and upset their political plans. It clears away the mists through which many honest men have had distorted views of the rights of the Southern people, and have mistakenly lent themselves to the cause of oppression and aggression, when they supposed themselves to be merely on their defense against attack. It gives the sanction of established law, and the guarantees of the constitution, for all that the South has insisted upon in the recent struggles, and forces her adversaries to surrender their political organization against her rights, or assume openly the position of agitators against the constitution. It is a heavy blow to Black Republicanism and its allies, the force of which they are attempting to break, in some slight degree, by raising a clamor against the judgment of the court for what it does not contain, and alarming the Northern mind for consequences which do not belong to it at all. It is pretended that it will work the necessity of extensive changes in the constitutions of the non-slaveholding states, and compel them to amend important provisions, and abolish old standing laws and take away long conceded rights, against their own declared views of internal policy. This complaint is made with most vehemence against that part of the decision that Africans and their descendants cannot become citizens of the United States. It is stated with alarm that all the States where colored persons have any political rights must proceed immediately to make the changes in their systems which are necessary to make them conform to this rule.

[4]"Canvass" is a nineteenth-century term for an election. Thus, the reference here is to the Republican Party's upcoming presidential campaign. Note that the *Mercury* refers to the party as the "Black Republicans."

For our own part we should not at all lament to see such a result brought about; but there is no such compulsory effect in the decision of the court in this case. On the contrary, the capacity of every State to confer political rights within its own limits, on any class of persons, at discretion, is broadly affirmed by the court, and the distinction as broadly taken that these, while they may create citizenship for the State, do not give rights as citizens of the United States. . . .

But the Supreme Court decision does not affect any right of a State over its own internal regulations; it rather seems to concede more than has been claimed by some persons who think themselves rigid constructionists of Federal powers, and the clamor about the overthrow of State laws and State constitutions is entirely unnecessary.

THE BUCHANAN ADMINISTRATION'S PAPER ENDORSES THE DECISION

The Washington *Union* was the unofficial voice of the administration of President James Buchanan and the proslavery mainstream of the Democratic Party. The following editorial illustrates the position of the administration on *Dred Scott.* Buchanan was both proslavery and pro-South, even though he was a lifelong political leader in his home state of Pennsylvania. Many southerners endorsed the views of the *Union.* The Richmond *Enquirer* and the Charleston *Mercury* often reprinted its editorials, although the *Mercury* considered the *Union* overly optimistic in its assessments of the effectiveness of the decision in ending antislavery agitation in the North and undermining the Republican Party.

UNION (WASHINGTON, D.C.)

The Dred Scott *Case*

March 12, 1857

On the 6th instant the Chief Justice of the United States delivered an elaborate opinion of the Supreme Court declaring the Missouri Compromise unconstitutional. . . .

We cherish a most ardent and confident expectation that this decision will meet a proper reception from the great mass of our intelligent countrymen; that it will be regarded with soberness and not with passion; and that it will thereby exert a mighty influence in diffusing sound opinions and restoring harmony and fraternal concord throughout the country. It comes at an auspicious period. Had it been pronounced—which could hardly have been possible—during the excitement of a presidential canvass,[1] its useful effect, for the present at least, would have been lost. Though no less just and constitutional than it is, it would have been temporarily overwhelmed in the surges of party clamor. Now, however, the excitement and strife of the late canvass are happily abated. The sober second thought has returned to the people; and they are well prepared to receive the judgment of the highest tribunal in the land, even if it, in many instances, differs from their own favorite political opinions.

The court which has settled the vexed constitutional question as to the power of Congress over Territories is entirely independent of the legislative branch of the government. It is elevated above the schemes of party politics, and shielded alike from the effects of sudden passion and of popular prejudice. Little motive, therefore, can the venerable jurists who compose that tribunal have for a deviation from the true principles of law.

It would be fortunate, indeed, if the opinion of that court on this important subject could receive the candid and respectful acquiescence which it merits. Such an exhibition of the moral conservatism of the people would well correspond with that sublime example of the fitness of the people for self-government lately witnessed in the laying down and taking up of high executive trusts in the midst of orderly enthusiasm. But we expect this decision will for a while be questioned,

[1]Election.

and even ridiculed by the anti-slavery press. The judges who concurred in it will be abused. "We have a race of agitators all over the country," said Daniel Webster[2] in his speech at Buffalo in 1851, "their livelihood consists in agitating; their freehold, their copyhold, their capital, their all in all, depend on the excitement of the public mind." To this class, which still exists, this decision will be a fresh topic of sectional agitation. . . .

We refer to the judgment of the court in this case in no spirit of triumph. We would not subject it to the mere uses of party. Many men supported the Nebraska-Kansas act who believed Congress had the right to exclude slavery from the Territories, but who deemed it inexpedient to have the right exercised. They wished to keep the subject out of Congress. They thought as Mr. Webster did when he favored the organization of New Mexico without the application of the Wilmot proviso. These men may be unprepared for this decision. We know that in the non-slaveholding States there are many who sincerely deprecated the repeal of the Missouri Compromise. There are many who have been brought up in the faith of the Wilmot proviso. They, perhaps, have not examined both sides of the question, and will feel a regret at this decision as deep as the pleasure of our southern friends is ardent. We would appeal to such men in a spirit of candor and patriotism; and, without censuring them for sentiments which they have long honestly cherished, only invite them to review their opinions, and to conform their action to the adjudication of the highest judicial tribunal in the land.

Never perhaps, in the history of the country, has there existed so much bitterness between the North and the South as within the past year. And it is remarkable that this bitterness has resulted not from measures so much as from transient excesses. The troubles in Kansas and some other accidental acts contributed to this state of things. But the chief cause of alienation was the unbridled license of a portion of the press and the intemperate language employed by many of our public speakers. It has been common for some of the ablest journals of the North to misrepresent and vilify the institutions and the people of the South. And these attacks have been reciprocated by some of the

[2]Daniel Webster (1782–1852) was a leading Whig Party politician, longtime U.S. senator from Massachusetts, and secretary of state in the administrations of Presidents John Tyler and Millard Fillmore. Webster startled his Massachusetts constituents by supporting the Fugitive Slave Law as part of the Compromise of 1850. This made him something of a hero among northern conservatives and "doughfaces." The Democratic *Union* happily quotes the Massachusetts Whig to attack those who might oppose *Dred Scott*.

radical papers of the South. Orators have resorted to the same practice. Under such circumstances, what else but bitterness and alienation could follow? What else but distrust be excited? No State or community is perfect. The North and the South have different institutions. Each State is alone responsible for its institutions, and it is morally and constitutionally wrong for the people of one State to assail the institutions of another State. Nor is it at all remarkable to expect that people who have been differently educated by social habits, by tradition, by parental precept, will think entirely alike. There must be toleration, and there must be forbearance.

It is gratifying to see that a better feeling is beginning to exist between both sections of the country; and we invoke the temperate and intelligent public opinion of the country, so potent for wise purposes, to withhold every vestige of support from that class whose livelihood is to create sectional animosity. In this way their shafts will fall impotent in the dust, and the wounds they have before made will become healed.

NORTHERN SUPPORT FOR THE *DRED SCOTT* DECISION

Many northerners, especially Democrats and some businessmen, supported the *Dred Scott* decision. Northern support stemmed from three interrelated sources: party politics, racism, and business concerns.

Democrats hoped the decision would finally end the debate over slavery in the territories and thus allow Democrats to get on with their agenda of western settlement and manifest destiny, while at the same time maintaining their political power. Since 1828 the Democratic Party had dominated United States politics. But at least since the mid-1830s slavery had threatened to disrupt the party and its political hegemony. Democrats, such as Stephen A. Douglas of Illinois, saw the *Dred Scott* decision as finally ending the debate. (See Chapter 3 for excerpts from Douglas's speeches and his debates with Lincoln in 1858.)

Some northerners also supported the decision out of racism. Most northern whites, along with virtually all southern whites, did not believe in racial equality. Abolitionists, antislavery activists, and some Republicans advocated an end to racial discrimination, but they were clearly in the minority. Northern Democrats used race to attack their

political opponents. Thus, many northern whites, especially northern Democrats, saw the decision as a way to exclude blacks from American public life.

Finally, northern business interests saw the debate over slavery as a threat to national commerce and the economy. Some business leaders hoped *Dred Scott* would not only end the debate but would minimize the divisiveness of the issue.

The New York *Journal of Commerce,* whose editorials are reprinted here, spoke for business interests in vigorously supporting the decision. The two editorials from the Pittsburgh *Post* reflect the views of mainstream northern Democrats, arguing that the *Dred Scott* decision was "the law." The *Post* also argues that the doctrine of the case, dealing with the rights of free blacks and the settlement of the western territories, was irrelevant to most people in the North. Furthermore, as the first *Post* editorial points out, the decision essentially confirmed the repeal of the Missouri Compromise by the Kansas-Nebraska Act. In the 1856 elections, Republicans had attacked the Kansas-Nebraska Act, but the *Post,* like other northern Democratic papers, here argues that the *Dred Scott* decision confirmed that "the Nebraska bill, was a harmless act, proper in itself, and, in fact, changing no existing law."

JOURNAL OF COMMERCE (NEW YORK)

The Decision of the Supreme Court

March 11, 1857

The Decision of the Supreme Court.—It was not to be expected that the Abolition press would readily concur in the wisdom, justice and constitutionality of the decision recently delivered in the Supreme Court of the United States in the case of *Scott vs. Sandford,* but it was hardly to be supposed that journals claiming to be respectable should so forget what is due to public decency and decorum as to assert that unique and deliberate judgment of the highest court of the land is entitled to no more "moral weight than would be the judgment of a majority of those congregated in any Washington bar-room,"[1] or to

[1]See New York *Tribune* editorial, page 144.

impugn the honesty and purity of the great Constitutional lawyers who occupy the exalted position of supreme and final judges of all matters relating to the interpretation of the Constitution and the laws. We believe, however, that those indecent and contemptible calumnies will meet with no approving response beyond the limited circle of disappointed factionists whose vocation it is to foment strife and discord to subserve individual and selfish ends; that by the great masses of the people who prefer truth to error, light to darkness, upon important political questions, the decision will be respected and honored, and that it will be accepted as a permanent record stamped with the absolute authenticity of the Constitution itself.

It is now decided on authority which admits of no appeal or question, and which few will presume to dispute, that negroes whether bond or free cannot be citizens of the United States according to the Constitution; that it is not in the power of any one particular State by conferring citizenship within its limits on a negro, to endow him with full citizenship in the other States of the Union without their consent; that the [Northwest] Ordinance of 1787 adopted by the thirteen colonies while they formed a confederation "for mutual protection," which was not framed until after the passage of that Ordinance, and which so far from prohibiting slavery or involuntary servitude, expressly declares that, "nothing in the Constitution shall be so construed as to prejudice any claims of the United States or of any particular state" with regard to the common property; that as a necessary sequence of this decision, the Act of 1820, known as the Missouri Compromise, is void, and unwarranted by the Constitution, it not being in the power of Congress to draw an arbitrary line across the United States, and to declare that north of that line United States citizens are forbidden to hold slaves; that the temporary residence of a slave in a free state does not legally render him free when he returns to a slave State, and that it is not in the power of Congress "to legislate slavery in any State or Territory, nor to exclude it therefrom," but that the Constitution vests that power in the people of the States and Territories alone, who are "perfectly free to form and regulate their domestic institutions in their own way, subject only to the provisions of the Constitution of the United States."

The vast and comprehensive social and political importance of this lucid and convincing judgment of the first constitutional authorities in the Republic, cannot be too highly estimated. It dissipates the mist in which we have been enveloped for years; it exposes in all their deformity the slavery heresies by which we have been disturbed for more

than half a century; it lays down, in language stripped of all sophistry or sectional bias, the relations which should exist between the States and Territories of the Union; it gives to the North, to the South, to the East, and to the West the true chart and compass by which to steer, and it proclaims to the people that they alone have the right, at all times and under all circumstances, to provide their own local government, to regulate their own affairs, and to decide for themselves whether they will or will not adopt domestic servitude as one of their institutions.

The people, who reverence the Constitution and the laws, and who only need to be shown the truth to adopt and obey it, will hail the decision with satisfaction and will regard its authoritative and final settlement of grievious sectional issues as almost the greatest political boon which has been vouchsafed to us since the foundation of the Republic. The demagogues who see the fuel upon which they relied for kindling the flames of discord and fanaticism thus snatched from their grasp, may seek to assail the illustrious judges by whom this grand exposition of constitutional rights has been promulgated; but their shafts can never reach the height which those gifted men occupy as well by their official station as in the veneration and respect of the people.

JOURNAL OF COMMERCE (NEW YORK)

The Dred Scott *Case*

March 12, 1857

Our Republican friends have fairly raised the standard of insurrection, and are giving us the higher law in all its moods and tenses with a vengeance. They declare in every way and shape—in every form of language, and with every possible manifestation of temper, except that of reason and sense—that the decision in the *Dred Scott* Case is not law, that the Judges who decided it don't know what law means, that their decision is absurd and nonsensical, oppressive and tyrannical, that nobody is bound by it, that nobody ought to obey it, and finally, that it shall not be submitted to.

After the flurry is over, we shall respectfully request the organs, whether of party or of the press, which have taken the Goddess of Lib-

erty into their especial keeping, to be pleased to let us know the platform or program, upon which they propose to carry out this government after the year 1860, or whenever the Millennium shall arrive, which is to induct them into power and place.

If the present Supreme Court is to be overthrown and its decrees trampled under foot—if the fundamental clauses of the Constitution are to be scoffed at and obliterated, we take it for granted that some other arbiter of controversies, some other ultimate tribunal, some other form of government in short, is to be adopted; and we are curious to know what it is to be.

For, the present question raises no issue like that presented by the Fugitive Slave Law, as to the competency of Congress to pass the law—no question of State Right or Federal Authority—on which men may plausibly differ. On the contrary, nobody pretends to deny that by the very words of the fundamental charter, the Supreme Court is vested with the power that it has exercised—that in deciding this *Dred Scott* Case—be the results right or wrong, the Court has done no more than it is authorized to do, and that every obligation of Constitution and of compact, of honor and of law, bind us to obey the decisions of that high tribunal.

But if all these considerations are to be derided—if the present is, in a word, a case for revolution, then do pray let us know what we are to have next. Are we to go for our law to the Tribune, or to the Post—to town meeting, or to a Vigilance Committee?

We have here, in practical shape, the tangible results of the very sensible doctrine of the Higher Law, by infiltrating which into the minds of our people, it is hoped to prepare them for some violent outbreak against our system of government.

What is the decision in the *Dred Scott* case? Let us see what the precise points are, which are considered so very novel, awful, and subversive of liberty.

First. The Court has decided that this government was made to secure the freedom of the white race, and that people of African descent are not citizens of the United States. This very point was decided administratively by Mr. Secretary [of State William L.] Marcy not three months since, when he refused passports to certain free persons of color. The refusal hardly attracted attention. It is arrant trash and nonsense, an anachronism, and a historical absurdity to assert that the Declaration of Independence, when it speaks of the "freedom and equality of mankind," intended to comprehend the black race. The Declaration of Independence was made by the representatives of com-

munities every one of which were then slaveholding communities. If the truth could be got at, it would no doubt appear that with perhaps a few exceptions, every man who signed the Declaration of Independence, was at the time a slaveholder. Very sensible and logical, is it not, to assert that these slaveholders intended to declare that their slaves were all free, and equal to themselves?

Second. The Court has decided that property in slaves is recognized by the Constitution, and that Congress has no power to prevent the citizen of South Carolina from going into the common territory of the United States with property recognized as such by his State, any more than it has to prohibit the citizen of Massachusetts from going into the Territories with property recognized as such by *his* State.

Third. The Court has decided that if a slave is taken into a free State and then taken back into a slave State by his or her master, that by this act of removal, the owner does not lose his right of property.

We do not propose to argue these points, but no man who is not blessed with an homeric pride of dogmatism and arrogance, will undertake to say that they are so transparently clear that they can be decided but one way. They have been submitted to the proper and regular arbiters, and they have been decided. They have been decided, if you please, against the hopes, the desires, the interests, the instincts and the passions of the Free States. If you please, they have been decided erroneously. Is that any reason for attacking the Court with this insane and ferocious violence?

What are we to come to? How is government to be carried on? Nobody doubts the learning of the Judges of the Supreme Court—no one questions its honesty. But it is insisted with a howl of rage that they have been governed by their prejudices. Suppose they have. Do we expect the gods to come down from Olympus to govern us? Do we expect to find men for Judges superior to the passions of human nature? And in the name of everything that is comical, are we invited to look for them in the ranks of the Republican Party?

The long and the short of it is, that the so called Republican Party is only another name for Revolution and anarchy. Its fundamental notion is a derision of all law that does not suit its whim,—of all administration that does not please the passions of the majority. It is utterly incompatible with every notion of order, of discipline, or of law. It may, for aught we know, prove itself able to overturn a government, but it is utterly incompetent to organize or conduct one. We look with curiosity to see whether the conservative faction of the Republican Party intends to be swept along by this tide of violence and disorganization.

POST (PITTSBURGH)

The Dred Scott *Case*

March 14, 1857

The decision of the highest judicial tribunal in the land in this case has already been published. There are several features in that case of great importance. One of its points is of special interest, following, as it does, so soon upon the Presidential election. The political opponents of the Democracy made the repeal of the Missouri Compromise one of the main issues of the late campaign. Upon that issue they sought to elect a President; but the people decided the issue against them. The Supreme Court has now decided that the Compromise act was unconstitutional, and, therefore, void. Its repeal, then, by the Nebraska bill, was a harmless act, proper in itself, and, in fact, changing no existing law. If it was unconstitutional, it was void of itself, and, therefore, no law.

Such, then, is the end of the "great commotion" about the Nebraska bill and the Missouri Compromise. The highest judicial tribunal in the land has declared that it was unconstitutional and void. Congress has repealed it; and the people have approved the act. In the place of a void and unconstitutional enactment, we have now established upon a firm basis the broad and salutary principle of popular sovereignty for the States and territor[i]es, and for all the domain over which our republican system of government is yet to extend. Local questions are to be settled by the local residents. That is the Democratic doctrine, and it is now approved, affirmed and established beyond recall.

POST (PITTSBURGH)

Seeking an Issue

March 17, 1857

The Republican presses just now are very busy in hunting up an issue on which to contend with the Democrats in the next election. Some of them seem to think that the late decision of the Supreme Court of the United States in the Dred Scott case will do to quarrel about. But others consider it too heavy a subject for a State election issue. The decision affects this State very little, and the people cannot be roused to activity by a matter that is of no practical importance to them. The decision was what was all along expected, and excites no great interest any where except with political agitators who are seeking an issue with the Democrats. Nothing can be made out of it as a political issue. It is law, and cannot be reversed by any other tribunal. The Judges cannot be removed. To contend about such a matter leads to no practical results whatever, and can excite no general interest.

OPPOSITION TO THE *DRED SCOTT* DECISION: A SPECTRUM OF NORTHERN OPINION

Negative responses to *Dred Scott* in the North were far more varied than in the South. Illustrative of the diversity of northern opinion are editorials in six papers: the New York *Tribune,* the New York *Daily Times,* the New York *Evening Post,* the New York *Independent,* and the Salem (Mass.) *Register* and *Zion's Herald,* a Methodist paper published in Boston. All six papers attacked the decision, but from rather different perspectives.

Historians often quote the New York *Tribune* editorial of March 7, 1857, which argues that the *Dred Scott* decision deserves no more "moral weight" than "would be the judgment of a majority of those congregated in any Washington bar-room."

Taney's decision left moderate opponents of slavery perplexed. The New York *Times,* for example, was horrified that the Supreme Court had "nationalized" slavery and thought that in the end the decision would strengthen northern resolve against the expansion of slavery. The *Times* thought Taney's opinion was revolutionary but saw few political options for northerners opposed to the decision.

The New York *Evening Post,* a mainstream moderate opponent of slavery, considered the action of the Supreme Court to be treasonous. Its editorial comes very close to endorsing the view of abolitionist William Lloyd Garrison that, in the aftermath of *Dred Scott,* politics was useless. Not surprisingly, Garrison's paper, the *Liberator,* reprinted this *Post* editorial.

The *Independent,* a Protestant religious paper, was unconcerned with the political implications of the decision. Its editors simply denounced the "wickedness" of the decision while exposing the weakness of Taney's arguments. Pointing out that Taney was a Roman Catholic, the *Independent* played on anti-Catholic sentiments common among many northern Protestants. This religious bigotry was tied to party politics; most Catholics, especially Irish Catholics, were Democrats and thus for political reasons were likely to support Taney's opinion.

The editorials from the Salem *Register* and *Zion's Herald and Wesleyan Journal* also reflect the disillusion and frustration of northerners. The Salem paper sees the decision as revolutionary, while the religious, antislavery editors of *Zion's Herald and Wesleyan Journal* assert, "We are become a province of Carolina."

TRIBUNE (NEW YORK)

Editorial

March 7, 1857

The long trumpeted decision of the Supreme Court in the Dred Scott case was pronounced by Judge Taney yesterday, having been held over from last year in order not too flagrantly to alarm and exasperate the Free States on the eve of an important Presidential election. Its cardinal points are reported as follows:

1. A negro, because of his color, is denied the rights of a citizen of the United States—even the right to sue in our Courts for the redress of the most flagrant wrongs.

2. A slave, being taken by his master into a Free State and thence returning under his master's sway, is not therefore entitled to his freedom.

3. *Congress has no rightful power to prohibit Slavery in the Territories:* hence the Missouri Restriction was unconstitutional. . . .

—This decision, we need hardly say, is entitled to just so much moral weight as would be the judgment of a majority of those congregated in any Washington bar-room. It is a *dictum* prescribed by the stump to the bench—the Bowie-knife sticking in the stump ready for instant use if needed. It is of a piece with the votes of Benton, Dix and Bagby for the Annexation of Texas with the boundary of the Rio Grande.[1]

This judgment annihilates all Compromises and brings us face to face with the great issue in the right shape. Slavery implies slave laws—that is, laws sustaining and enforcing the claim of one man to own and sell another. In the absence of such laws, Slavery cannot exist; and a Republican ascendancy in the nation, insuring Republican rule over the Territories, will prove a shield against the enactment of any such laws. Under any other rule, all our Territories are henceforth Slave Territories, on the way to be ripened into Slave States. . . .

DAILY TIMES (NEW YORK)

The Slavery Question— The Decision of the Supreme Court

March 9, 1857

. . . The decision of the Supreme Court in the case of Dred Scott completes the nationalization of Slavery. Slavery is no longer a local institution,—the creature of local law,—dependent for its existence and protection upon State sovereignty and State legislation. It is incorporated into the Constitution of the United States. Its tenure is the

[1]Democratic Senators Thomas Hart Benton of Missouri, John Adams Dix of New York, and Arthur Pendleton Bagby of Alabama supported the annexation of Texas and the Mexican War. When the United States annexed Texas, Americans, Mexicans, and Texans did not agree on the boundary of the new state. Texans claimed it was at the Rio Grande, while Mexico claimed it was farther north. By claiming land all the way to the Rio Grande, the United States set the stage for the war with Mexico in 1846.

tenure of all property, and the Constitution protects and preserves it, to the same extent and upon the same principles, as it protects any other property of any kind whatever. This is the fundamental position which the Supreme Court has just asserted, and upon which all its decisions in this case rest. Congress cannot exclude Slavery from Federal territory, because the *right* to slaves is the right to *property*, and cannot be divested. For the same reason the people of the Territory cannot exclude Slavery from their own domain:—and when the time for the next step comes, we shall have it in the logical sequence, that *no State Government has a right to deprive any citizen of property, which the Constitution of the United States protects him in holding.*

It is not too much to say that this decision revolutionizes the Federal Government, and changes entirely the relation which Slavery has hitherto held towards it. Slavery is no longer local: it is national. The Federal Government is no longer held aloof from it, as a thing wholly and exclusively out of its jurisdiction:—it is brought directly within its sphere and put immediately under its protection. The doctrine of State Rights, so long its friend, is now its foe.

That this decision is to produce the most profound impression upon the public judgment is certain. Its first effect will be to paralyze and astound the public mind. Familiar as our people have become to the advancement of Slavery towards supremacy in our Government, they have not believed that it could obtain so absolute a seat in the supreme council of the Republic at so early a day. The decision will be accepted and obeyed as law. There will be no wide or loud protest against it. The public peace will not be disturbed,—the public ear will not be vexed,—by clamorous outcries or noisy denunciation of the Court and its decree. But the doctrine it has promulgated will sink deep into the public heart, and germinate there as the seed of discontent and contest and disaster hereafter. They mistake the temper of the men of this Republic, who believe that they will ever accept Slavery as the fixed and permanent law of the American Union. They have trusted to time,—to the progress of civilization, to the melioration of legal codes,—to eliminate, to population, to established metes and bounds, to old covenants and compacts and the advancement of Christian principle, for ultimate deliverance. They will strive still to cling to such of these as violence and wrong have left untouched. But this last decision leaves little to hope and everything to fear. And the people will begin to ask why, if Slavery is *national,* the nation should not assume the custody and control of it:—why it should be constitutional for the Federal Government to protect, and not to remove, it:—why, if its extension is synonymous with its existence, both should not be ended together.

Apparent peace will follow the action of the Supreme Court. The partisans of its conduct and its doctrine will proclaim it to be the end of controversy upon this subject, and the immediate result will seem to confirm their hopes. But it has laid the only solid foundation which has ever yet existed for an Abolition party; and it will do more to stimulate the growth, to build up the power and consolidate the action of such a party, than has been done by any other event since the Declaration of Independence.

EVENING POST (NEW YORK)

The Supreme Court of the United States

March 7, 1857

The dangers apprehended from the organic tendencies of the Supreme Court to engross the legislative power of the federal government, which Jefferson foresaw and so often warned his countrymen against, are no longer imaginary. They are upon us. The decision rendered by that body yesterday, in the case of a Missouri negro who had appealed to it for assistance in asserting his right to share the promises of the Declaration of Independence, has struck at the very roots of the past legislative policy of this country in reference to slavery. It has changed the very blood of the constitution, from which we derive our political existence, and has given to our government a direction and a purpose as novel as it is barbarous and humiliating.

In the first place, it has annihilated at a single blow the citizenship of the entire colored population of the country, and with it all laws and constitutional provisions of the different states for the protection of those rights.

In the next place, it has stripped Congress of a power to exclude slavery from the territories, which has been exercised by every President of the United States from Washington down to Fillmore, and which has had an effect in shaping the political and domestic institu-

tions of more than half the territory of the United States. The [Northwest] ordinance of 1787, with the passage or defence of which the names of the most eminent American statesman have been imperishably associated, is not only pronounced unconstitutional, but the power to enact any laws which contemplates a restriction upon the right to buy, hold and sell slaves in our territories is distinctly denied.

Nor is this all. The doctrine which has been recognized wherever the common law prevails, since the days of Lord Mansfield,[1] that when a slave is taken by his master into the jurisdiction of a state which prohibits slavery, he is from that moment free, is not only set aside, but the power is denied to the states of this Union to prohibit masters bringing slaves within their jurisdiction, provided that they do not enter it with the intention of establishing a permanent residence there.

All of these positions are new in the juridical history of the country; the law in reference to all of them was settled by a long line of judicial decisions by the highest tribunals of the several states, and until within the last twelve years was regarded as much beyond the reach of controversy as the right of the people of the United States to a republican form of government. If precedent, usage, public acquiescence could hallow any doctrines of constitutional interpretation, then were those doctrines hallowed which have been ruthlessly subverted by the Supreme Court.

It is with feelings of more than ordinary solemnity that we record this decision, for its consequences are beyond the reach of human calculation. We are not so much concerned at the invasion of the laws and constitution of the country, both of which accomplishes—for the American people, we have no doubt, will take care of their rights in spite of the Supreme Court—as we are, in being forced to the melancholy conviction that the moral authority and consequen[t] usefulness of that tribunal, under its present organization, is seriously impaired, if not destroyed.

So long as the subject was within the range of Congressional action, so long the voice of the people could be heard, and their wishes could impress the legislation of the country to get the subject beyond the reach

[1]In the English case *Somerset v. Stewart* (1772), Lord Chief Justice Mansfield held that a slave brought into England could not be forcibly reenslaved or forcibly removed to a slaveholding colony. Before Dred Scott's case, the Missouri Supreme Court followed the *Somerset* precedent, holding that slaves brought to free states became free. Had the U.S. Supreme Court followed *Somerset,* Dred Scott would have gained his freedom.

of these influences; to make every judicial tribunal in the nation and every lawyer a sworn ally of slavery propagandism, it was only necessary to secure the co-operation of the Supreme Court, and that has been done. A conspiracy has been entered into of the most treasonable character; the justices of the Supreme Court and the leading members of the new administration are parties to it. One who runs may read the evidence of it in every revelation from the capital.

Of course the moment this conviction takes possession of the public mind, there is an end of the Supreme Court; for a judicial tribunal, which is not rooted in the confidence of the people, will soon either be disregarded as an authority or overturned. . . .

INDEPENDENT (NEW YORK)

Wickedness of the Decision in the Supreme Court against the African Race

March 19, 1857

To present the wickedness of this decision, and of the grounds on which it was based, without prejudice and without exaggeration, we must quote a portion of it. "It is difficult at this day," says Judge Taney, "to realize the state of public opinion respecting that unfortunate class, with the civilized and enlightened portion of the world, at the time of the Declaration of Independence and adoption of the Constitution; but history shows they have for more than a century been regarded as beings of an inferior order, and unfit associates for the white race, either socially or politically, and had no rights which white men were bound to respect; and the black man might be reduced to slavery, bought and sold, and treated as an ordinary . . . article of merchandise. This opinion at that time was fixed and universal with the civilized portion of the white race. It was regarded as an axiom in morals, which no one thought of disputing, and every one habitually acted upon it, without doubting for a moment the correctness of the opinion. . . ."

In this horrible hand-book of tyranny it is asserted, 1st. That according to the past century of opinion, adopted as law in the Constitution, black men have no rights which white men ought to respect, but may be reduced to slavery, bought and sold, and treated as an

ordinary article of merchandise; 2d. That the negro race are excluded by the Constitution from the possibility of being citizens, and from having any personal rights or benefits: 3d. They are all articles of merchandise, all the negro race; 4th. Their being free makes no difference, for the Constitution treats and considers them as mere property, and gives the government power over them as such.

These assertions the Judge attempts to sustain by a deliberate falsification of the Constitution and of history. If they were true, then the Constitution would be a document reprobated by the Almighty, and entitled only to the curses of mankind. It is [a] matter of thankfulness that if such infamous propositions were to be made under the solemn authority of a court of American justice, the Judge propounding them should have been a member of the Papal church, so that it is not Protestant Christianity that has given such a verdict, however Protestant ministers may possibly be found to sustain it. It is of a piece with that religion which has always been accustomed to anathematize races by the wholesale, that religion and church which consigns all heretics to perdition, and in time past declared that they have no rights which the infallible reigning church ought to respect. This habit of persecution has come to a personification in our Supreme Court of Justice.

The annals of the world cannot show a more astounding avowal of wrong as the justified principle of action. Because wrong has been done in a former age, and examples of wickedness have been set, and impure and immoral principles, habits, and opinions have prevailed, therefore we will abide by them, even when we have discovered their wrongfulness, and when the moral sense of the world is against them. . . . The Declaration of Independence must be asserted to be a lie, must be interpreted as such, as not meaning what it declares, because the authors of it were honorable men, and cannot be supposed to have professed any knowledge of right and wrong beyond the customary principles of morality in their day, nor any rule of freedom, nor any preference of freedom above slavery, higher than the world around them acknowledged and obeyed. They must be supposed to have uttered what they knew to be a lie, when they said that all men were entitled to life, liberty, and the pursuit of happiness, or else they must be supposed and insisted to have held the opinion that a negro is not a man, but a mere thing to be trampled on, a piece of property without rights, without a man's personality. They must be supposed to have themselves supposed that negroes were not entitled to life, liberty, and the pursuit of happiness, because they cannot be supposed themselves to have possessed any more enlarged ideas of liberty, and of the claims of all men to it, than the ages of darkness that preceded them, or the century of darkness in the midst of which they were thrown. As honorable men, they cannot be supposed to have said what they did not believe, and they cannot be supposed to have believed in any other ideas than that the negro race were mere property and not men; and therefore, when they aver that all men are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness, they must have meant to exclude the African race, they could not have regarded that race as a portion of all men, because that race had been from time immemorial deprived of the rights of men and treated as property; and the Declaration of Independence must, therefore, be interpreted to mean only white men, to mean that only white men had any of the inalienable rights of men, and that no black man, negro, or of the African race, could be born equal to white men, or endowed by the Creator with any right to liberty and the pursuit of happiness.

Such is the interpretation forced by a grave judicial court, the highest court in the most enlightened country in the world, a court of justice, a court called Supreme, and almost invested, according to the doctrines of many, with the attributes of Jehovah himself; such is the interpretation assumed and forced upon the grandest, most comprehensive, most unmistakable, most exalted preamble to the justest, freest, noblest constitution in the world! Such is the assumption of a court of justice, such the position against a down-trodden man and human family pleading for justice, the assumption beforehand against the victim of injustice, that he never was born for any other purpose than to be deprived of all the rights of man, the position that by his very nature as the subject of a colored skin, he cannot appear in court as a man, cannot be possessed of any of the rights of humanity, cannot have any claim to justice under the Constitution, cannot be admittted to plead as a citizen. These are the positions taken by a court of justice! . . .

Now we fearlessly declare that there never was, under the whole heaven, a more atrocious, wholesale wickedness perpetrated upon the bench of justice than this. For not only is it exasperated beyond conception by issuing from the tribunal of a professedly Christian nation, but it is a perpetration by principle, and of widening reach and accumulating power to all time. It takes, moreover, not a man, nor a few men merely, nor a province to lay waste, like Verres,[1] but a whole nation, nor even a nation merely, but a whole race by the throat, and strangles it, and flings forth the lifeless corpse, lifeless in law as to all

[1]Gaius Verres (died 43 B.C.E.) was a roman politician notorious for his barbaric cruelty in governing Sicily from 74 to 70 B.C.E.

possibility of rights; but with the living capacity of injury and insult, flings forth the strangled race by the roadside of the family of man, for all human beasts of prey to fatten on. . . .

The wickedness of such gross and horrible outlawry of a down-trodden class, is immeasurably more wicked in a period of advanced and enlarged philanthropy, than it ever was before; more inexcusable and intolerable, under the full light of the Gospel, and after the Declaration of Independence, than it could have been in any preceding age. But to think of springing back from this present point of light into that thick darkness, to think of a pack of judges deliberately returning like a pack of wolves to the dead carrion of immorality and injustice, cast out as offal for a hundred years! To think of their taking up the cast-off gaberdines of judges that have died long ago in the wilderness of this world, with the pestilence of this moral rot upon them, and putting on those leprosy-fretted garments for their robes of justice, and advancing those doctrines abhorred and reprobated of society for whole generations! To think of such justice and such judgment, the very dregs of the cup of past judicial corruption and depravity, chosen and adopted as the principle and life of constitutional law by the Supreme Judicial Court of the United States of America, in the middle of the nineteenth century! . . .

REGISTER (SALEM)

The U.S. Supreme Court

March 12, 1857

The recent extraordinary decision of the Supreme Court of the United States will be better understood and appreciated, when the thoroughly partisan character which it has been gradually made to assume is regarded. The veneration which that august tribunal secured for itself when its decisions were made and its judgments pronounced by such Justices as Jay, Rutledge, Ellsworth, Marshall, Story, and others—men whose ability, disinterestedness and patriotism were universally confided in, no matter from what section of the country they came—this veneration has received a signal shock, and the suspicion is beginning to be entertained that our high justiciaries, who were supposed to be beyond the reach of reproach, are quite as fallible as public men in inferior positions and under greater temptations.

The truth is, the Court has been wholly revolutionized. The sleepless vigilance of the Slave Power has been constantly watching its opportunity to invade the temple of justice, from time to time insisting upon the appointment of advocates of its most obnoxious doctrines, until now the tribunal is apparently its own, ready to sustain the most ultra Southern ground. . . .

ZION'S HERALD AND WESLEYAN JOURNAL (BOSTON)

The Late Decision of the Supreme Court of the United States

March 18, 1857

This astonishing decision is the theme of conversation and thought all over the country. . . .

. . . What ought we to do? Shall we rebel? We answer, No. It would be idle and useless. In a government it seems necessary to have a court removed some distance from immediate popular influence, to control even the Executive. This Supreme Court has made many righteous decisions. It now makes one horribly wicked. Shall we repudiate the Court? If so, we might as well have none, which would be a greater evil.

1. We ought to oppose and expose the decision. The several States must as far as possible nullify it.

2. We ought to prepare for the crisis coming. The oligarchs of slavery are waxing bolder and bolder, more and more insulting. There are now no free colored men in the North. Soon they will see that our free labor interferes in some way with their progress, and will begin to interfere with that. The next step now will probably be the purchase of Cuba,[1] after which, without any special act, the foreign slave trade with Africa will be open. The act of Congress pronouncing the slave trade piracy, and abolishing it, is UNCONSTITUTIONAL. Congress

[1]Throughout the 1850s, extremists in the South agitated for American expansion into Cuba as a new source for slaves and land for the expansion of slavery. Southerners also wanted the United States to take over Nicaragua or other parts of Central America.

had no right to pass such a quixotic act. *Everything* protecting the colored man is *unconstitutional*—everything interfering with the slaveholder is unconstitutional. The bogus legislature in Kansas is not unconstitutional; the free legislature is. And so on throughout.

3. Now every man, North and South, who has any regard for right, should solemnly vow to himself and God, with all the solemnity of an oath, that he will never vote for a man for any office in State or the United States, who is not openly and reliably opposed to all slavery; and who will not make use of all means to cripple, abolish, and extirpate it.

4. Again as Christians we have a special duty. Our church is not of God unless she shakes off this curse and sin with the deepest indignation. This injustice to the black man she shall not connive at. She ought to say and preach that the black man has a right to his liberty everywhere. He has. The United States has no right to deny him citizenship. He has a right, and is bound to obey God rather than man. Liberty is natural, and slavery is not even an exception—there is not exception; the master is always and must be a sinner; guilty, too, of one of the deepest of crimes. All apparent exceptions are not exceptions. They are only transitional passages as rapid as possible from a great evil to good.

5. Lastly, we ourselves must declare our freedom; our freedom from party in State and in Church. There are some who will assent to anything if done by their party; and there are some Christians who think more of what they call the peace and quiet of the church than they do of the cause of God. Such men sin and lead others to sin, and the exigences (sic) of the times now loudly call them to repent.

There is only one ray of light, and that is—the insanity of strong defenders excites a more determined opposition. Anti-slavery progresses. When the final conflict comes, which it would seem will be not far hence, if God is in favor of justice and the power of truth is not a chimera, slavery will be crushed to the earth and liberty be universal.

LINCOLN'S PAPER RESPONDS

The Chicago *Tribune* was a leading Republican paper, and the short editorials printed here illustrate its sharp disagreement with Taney as well as the importance the Republicans placed on the McLean and Curtis dissents. That the *Tribune* reprinted the dissents in full suggests the strong public interest in the case.

In 1860 the Chicago *Tribune* would lead the supporters of Abraham Lincoln, helping set the stage for his nomination as the Republican presidential candidate.

TRIBUNE (CHICAGO)

Who Are Negroes?

March 12, 1857

Chief Justice Taney decides, in the Dred Scott case, that *negroes* are not citizens of the United States. He defines a negro to be a person "whose ancestors were imported, and sold as slaves." And upon this definition he proceeded to build his decision. But are persons who are part *white*—mulattoes, for instance—not citizens? How is it with those, one of whose ancestors emigrated to this country from Europe? And how is it with that large class in whose veins the blood of the white preponderates? How much white blood is necessary to make a native born American a citizen? Will Chief Justice Taney settle the question? There are tens of thousands of men more than half white, many of whose sires belong to the real F. F. V.s,[1] and nearly all of their fathers claim to belong to the chivalry. It is important to settle the *status* of these people. They are very numerous, and, in the Slave States, rapidly multiplying.

TRIBUNE (CHICAGO)

The Dred Scott *Case*

March 17, 1857

We publish this morning the opinion delivered by Chief Justice Taney on the Dred Scott case, on the 6th of March. The law of Illinois, as laid down by the Supreme Court of this State is, that if a slave be brought into this State by his master he becomes a free man.

In 1834 Dred Scott, being a slave in Missouri, was taken by his owner, an officer in the United States Army, to Rock Island, in Illinois, whence, in 1836, he was removed to Fort Snelling, in Minnesota. He there found Harriet, whom he presently married, and who, having been a slave in Missouri, had been brought the year before to Fort Snelling by her master also an officer in the army.

[1]First Families of Virginia, the slaveholding elite of Virginia.

He and his wife and children were afterwards carried back to Missouri, and there reduced to slavery; thereupon Scott brought suit in the U. S. District Court to obtain his freedom. The case was carried to Washington, before the full bench. It was met at the threshold of the Court by a decision of the Chief Justice and his four Slave-holding associates, that a negro cannot sue in the United States Courts; that he is not a citizen of the United States. Of course this should have been the end of the case. The Court had no occasion, had no right to go a step further. But as a part of the grand conspiracy against Freedom, they proceeded to pronounce on extra judicial opinion, covering other points, and involving more important questions than it has ever before passed upon. We will not stop here to review the opinion of Judge Taney, but will leave that for Judges McLean and Curtis,—the reply of the former will be given tomorrow.

TRIBUNE (CHICAGO)

Justice Curtis's Opinion

March 19, 1857

We call attention to the part of the opinion, of Judge Curtis, which we publish to day. It is solid, yet clear and discriminating. There is, indeed, in his whole opinion a fairness, a learning and research, a power, which cannot fail to give him a wide and lasting reputation. Though in a minority now, he will not long remain so. It is impossible, that the decision of the majority can stand, in this Republic, and at this age of the world. The slaveholding Judges, perhaps even Judge Taney, will live in all probability, to hear it reversed, and denounced by common consent, as one of those legal monstrosities which the Judicial tools of tyrants or the judicial confederates of parties have insanely perpetrated against right and justice.

"What constitutes a citizen?" This is the subject discussed by Judge Curtis in the part of the opinion we publish, and it is a subject which every freeman should understand. Nor can any intelligent mind fail to comprehend it, if he will only read it. It is eminently lucid and practical. It makes the whole matter plain, shows conclusively what the Constitution is both as regards the States and the Nation, and that negroes, under that Constitution, were and are, and may become citizens.

A WAR FOR PUBLIC OPINION: THE WASHINGTON *UNION* AND THE NEW YORK *TRIBUNE*

The following editorials, from the Washington *Union* and the New York *Tribune*, illustrate the "newspaper war" over the *Dred Scott* decision. The *Union* was the unofficial voice of the Buchanan administration, while the *Tribune* was one of the most important Republican papers in the North. The *Union* quotes at length from the *Tribune* to attack the Republican paper. Similarly, the *Tribune* quotes from the *Union* and from the New York *Journal of Commerce* (see pp. 161–64) to attack those papers.

UNION (WASHINGTON, D.C.)

Unreasonable Complaints

March 21, 1857

The New York Tribune, referring to the late decision of the Supreme Judicial Court, says:

It is no longer in Congress or on the plains of Kansas that we are assailed. Now the slaveholders' majority in the Supreme Court of the United States have stepped into the arena.

Similar language, on the same subject, is employed along the entire line of the black-republican press, and, under such influence, there are some men at the North, we doubt not, who regard the Supreme Court as having made a gross and wicked attack upon their individual rights. If these men will take the trouble to think calmly and dispassionately upon the probabilities of the case, they, will readily admit that such an attack is hardly among them and that a tribunal, constituted as the Supreme Court is, is not likely to violate wilfully its duty and its judgment in order to make war upon any section or any citizen of our common country. Why should it do so? Why should Chief Justice Taney, for example, be governed in his official action by any other considera-

tions than those of impartial justice and honest patriotism? Venerable in years, as well as in wisdom, he has earned, during a long life, those plaudits which, among all right-minded men, are freely bestowed upon private worth and public virtue and eminent ability. His home is in one of those central States of the Union, where the waves of public opinion meet and modify each other both from the North and from the South, and where excessive opinions on the subject of slavery are not generally understood to prevail. He must be insensible, also, to every consideration of personal ambition, because, of course, he has no political future, and he retains his present position by virtue of the constitution. If such a man, after twenty years of judicial service, is not surrounded with all the presumptions in favor of right action that can give confidence anywhere, it is difficult to imagine a position where such presumptions can exist. We mention the Chief Justice by way of example, but not to exclude presumptions of a similar character in favor of the other members of the court. Why should Judge Catron, or Judge Wayne, or Judge Nelson, or Judge Grier, be held any less reliable in character or patriotism, than Judge McLean or Judge Curtis, neither of whom do we think it decorous to attack for a mere expression of judicial opinion? Surely, if a southern judge is to be charged with southern prejudice, a northern judge may with equal propriety be charged with northern prejudice, or a western judge be distrusted for alleged partiality to the West, and thus the whole moral power of an institution, whose independence and wisdom and impartiality the country has been accustomed to respect, will be frittered away by local and sectional prejudices. We respectfully submit to any northern reader who holds the opinions of the New York Tribune whether he himself is not quite as likely to be the victim of local or partisan prejudice as any member of the court? Is he quite sure that on subjects connected with the slavery question he does not occupy a standpoint which renders his judgment almost necessarily a partial one? Does he place himself in the position of those who framed the constitution, when the States were all slave States, and from that position does he look out upon the great work of our fathers, and inquire, honestly and dispassionately, what its true meaning is? Or does he not rather come to the subject, if he thinks it worthy even of investigation, with his whole nature imbued with abolition theories and crude notions of abstract right, which, had they existed and had full sway in the convention of '87, would have rendered the constitution, impossible, as they now interfere dangerously with its practical workings? What the constitution *ought to be,* in the judgment of a modern theorist, is one

thing; but what the constitution really *is,* is another and a very different thing. Upon this latter point, the determination of the Supreme Court of the United States, constituted as we have described it to be, is surely quite as respectable and authoritative as that of an abolition editor, or an infidel convention. Each of the judges, we have already said, is worthy of the public confidence; but it is a striking fact that Judge McLean was prominently before the Philadelphia convention of 1856, in competition with Col. [John C.] Frémont,[1] for its nomination, and it is equally to be remembered that, when Judge Curtis was appointed to his present place, the black-republican papers which now regard him favorably were loud in their denunciations of his subserviency to the South. Is it not better to believe that he was equally honest then and now, and to credit both him and his associates with upright dispositions, whether we agree with them or not in all their opinions? . . .

But what, after all, is there in the decision of the Dred Scott case, so far as it is either known or conjectured, which can justify, in the slightest degree, the assertions which we have copied, in the beginning of this article, from the New York Tribune? The Tribune describes itself as "assailed no longer in Congress or on the plains of Kansas," but "in the Supreme Court of the United States." If this language means anything, it must mean that the editor of the Tribune is deprived of some right which he ought to enjoy in common with other citizens, and that a northern man is degraded by the Supreme Court into an inequality, somehow or other, with a southern man. Yet, is there any foundation in fact for such a statement as this? Is not Horace Greeley possessed of the same rights precisely under the law of the Scott case and every other case, as any other free citizen of the Union? Is there a single right or privilege asserted in the judgment referred to in favor of a southern man, that is not also asserted in favor of a northern man? If so, we should be glad to have it pointed out to us; but if not, with what show of reason or justice or common sense, do the Tribune and its kindred prints declaim constantly about the degradation of the North? How is the North or the South degraded when they enjoy equal political rights? How can a man lash himself into a fury about tyrannical assaults upon his liberty, when he enjoys precisely as much freedom as any one of his fellow-citizens? The writers and orators of the Garrison and Parker[2] school revel constantly in a perfect

[1]John C. Frémont, a hero of western exploration, was the Republican candidate for president in 1856.

prodigality of license. They preach abolition and infidelity in their own way and to their hearts' content. They are not molested themselves, and they heap anathemas upon others. If anybody, on the face of this earth, enjoys greater liberty than they do, we confess that we cannot imagine where that person resides. And yet, to hear them talk or to read their writings, one would think they were suffering under greater oppression than any which ever induced a crushed and desperate people to fly to arms! Here they are, living under the best government in the world, with social enjoyments all around them, plenty on every side, secure in their persons and in their property, schools provided for their children, and church-bells proclaiming, from time to time, the safety and quiet and religious culture of their homes; and yet, instead of devoutly thanking God that their lines have thus fallen to them in pleasant places, they fill the air with complaints, they assail the structure of society, and they make war upon the government which protects them! We appeal to all good citizens to discountenance the agitations of such men, and to think calmly and dispassionately for themselves upon this whole subject of slavery and the constitution. The opinions of the majority of the Supreme Judicial Court, in the *Dred Scott* case, will soon be published, and will then be entitled to receive the candid consideration of the American people. If they shall make their way, at last, to public approval, notwithstanding the censure they have received in advance, they will only repeat the lesson of a previous judicial decision, which deserves now to be remembered. The judgment of the Supreme Court in the case of Prigg *vs.* Pennsylvania,[3] on the subject of returning fugitive slaves, was also assailed in the beginning with denunciation and ridicule, but was afterwards acquiesced in by the people and by the courts. It may be that the decision in the Scott case may receive an equally general assent, but it will, at all events, be practically respected, and the people will examine with care the reasonings upon which it is founded. Until these reasonings are published, it is the part of wisdom, even for those whose impressions are against the decision, to suspend their judgments.

[2]William Lloyd Garrison was the most famous abolitionist in the nation; Rev. Theodore Parker was an activist abolitionist minister in Boston. Both opposed political action, believing that the Constitution was immorally proslavery.

[3]In *Prigg v. Pennsylvania*, 16 Peters (U.S.) 539 (1842), Justice Joseph Story of Massachusetts wrote a proslavery majority opinion striking down all northern laws aimed at giving alleged fugitive slaves due process protection. Many northerners were shocked by this opinion, especially because it was written by a northern justice.

TRIBUNE (NEW YORK)

Judge Taney's Opinion

March 21, 1857

The decision of the Supreme Court is hailed with delight by the "Court Organ" of Mr. Buchanan [the *Washington Union*]. It says "there was but one thing needed to give to the result in the Presidential contest the force of an absolute and final settlement of the sectional issue. That thing was the judgment of the Supreme Court in confirmation of democratic doctrines which had received the popular endorsement. The decision in the Dred Scott case has furnished the closing and clinching confirmation needed, and henceforth sectional fanaticism cannot maintain its warfare without arraying itself distinctly against the Constitution. The people have decided that sectional agitation must cease, and the highest judicial authority has declared that the people have decided in accordance with the Constitution. We feel, therefore, that the danger is for the present over, that sectionalism is virtually dead—that it has been crushed out by the popular verdict in the Presidential election; and that the decision of the Supreme Court has left nothing vital in republicanism, and has placed the democratic party beyond and above all competition as the constitutional, national, Union party . . . of the country. Mr. Buchanan takes the helm under these suspicion circumstances, and his acts thus far give token of a successful and prosperous administration."

Sectionalism dead? It was the most intense, bitter, overshadowing sectionalism that forced this decree from the Supreme Court. It was the political department of the government controlling the judicial. Had a [Chief Justice John] Marshall been upon the bench this decision never could have been obtained. Southern man as he was, he belonged to the purer and better days of the Republic, when all united in proclaiming that "liberty," and not "slavery," was national.

If the "Court Organ" thinks that the spirit of freedom at the North is to be "crushed out" by this political and sectional opinion of the Supreme Court, it labors under a great mistake. It will but condense and intensify the opposition to the encroachments of the slave power. It will melt the mass of the people into one great irresistible party of freedom, which will sweep everything before it.

The encroachment upon State rights and State sovereignty is not confined alone to the Supreme Court; but the District Judges, catching the spirit of federalism which pervades the dominant party, are attempting to do their part in this business. We understand that the Judge of this District—and probably those of the others have done the same—has issued orders to the Marshal, &c, to pay no regard to any writs issued by the State Courts—thus leaving the citizen without remedy, save that which the District Court may, in its graciousness, grant. These things call for State action to an extent that will let the federal judiciary know that the States are sovereign on their own soil, and that the federal officers exercise their functions within their jurisdiction only by sufferance.

TRIBUNE (NEW YORK)

Editorial

March 21, 1857

Whatever *The Journal of Commerce* may think of it, "more virulent expressions of abuse," whether directed against a Court or an individual, are not likely to make any very deep or permanent impression on the public mind. The serious danger which threatens the Supreme Court of the United States at this moment, and with the reality of which we are as much impressed as that journal is, comes much less from without than from within. Nor on the other hand will mere superstitious worship or fulsome flattery avail to sustain a Court or to hold up a decision which have not inherent strength enough to sustain themselves.

Had the opinion delivered by Chief Justice Taney in the Dred Scott case possessed the essential requisites of a weighty judicial decision, had it rested on grounds and reasons the existence and the force of which it was impossible to deny, however unpalatable might have been the result arrived at, the judgment of the Court would not have failed to tell even upon those minds to which its conclusions might have been most distasteful. The existing difficulty is much more serious, and one which all the efforts of *The Journal of Commerce* to dry or wet nurse the untimely, not to say monstrous, fruit of the Court's labor to vitality, cannot obviate. It is in vain to talk about the elevation of the

"Court and its members above the intrigues of party politics and the influences of party passion," when we have before us an opinion every line and sentence of which is thoroughly infused with that spirit of political intrigue and that insanity of party passion in which the Kansas-Nebraska bill had its origin, and from which the Border-Ruffian brutalities of Kansas have drawn encouragement and support. It is absurd to tell us about the appointment of the Judges for life, for the express purpose of securing their independence and placing them beyond the reach of temptation, when the very course of reasoning to which they resort, and the basis of deliberate and studied misrepresentation on which . . . they have rested their decision, show these precautions to have entirely failed, and the Judges to be just as much the exponents of the popular passions of those sections of the country from which a majority of them came, as if liable to be turned out of office at any time by a popular vote. Independence, *The Journal of Commerce* ought to understand, is a quality of mind which, however certain positions may favor it, requires also a certain natural cast of character, without which it cannot exist. This is a point altogether too important to be left out of the account. Whatever precautions the framers of the Constitution may have taken, or may have thought they were taking, in the nature of office and otherwise, to invest the Judges with titles to public confidence and respect, unfortunately the sort of persons selected to fill those positions and the sort of grounds upon which those appointments have been made have by no means corresponded thereto.

Which of the Pro-Slavery Judges, we should like to know, owes his appointment exclusively or in any considerable degree to his eminence as a jurist or to his character as a man? Was Chief Justice Taney raised to his present position merely as an acknowledgment of his learning and talents and judicial virtues, or did he get his place as a reward for partisan services zealously and unscrupulously rendered at a time of high party excitement? As it is with the Chief, so it is with his associates. They, like him, owe their places to political considerations, not to a superiority over hundreds of other lawyers in any of the qualities calculated to inspire public respect.

It is in vain, by any terms of fulsome panegyric and eulogy, by dwelling upon the alleged legal lore, unsullied character, advanced age and life-tenure of the Judges, to make up for inherent falseness, weakness and emptiness in the allegations and arguments which they put forth. *The Journal of Commerce* may howl itself hoarse in shouting over the Dred Scott decision as "authoritative" and "irreversible;" that

decision will carry the weight with the public mind, and will do nothing toward settling the interpretation of the Constitution, except so far as the reasons on which it is founded shall stand the test of sharp criticism and rigorous examination. If *The Journal of Commerce* can urge anything satisfactory by way of answer to the various exceptions taken to the assumptions and arguments of Chief Justice Taney's opinion, it will do the Court much more service and itself much more credit than by attempting to induce the public to swallow that decision with eyes shut and mouth open, asking no questions, venturing no doubts, and trusting exclusively to the authority of the Court and the indorsement of *The Journal of Commerce.*

TRIBUNE (NEW YORK)

Editorial

March 25, 1857

The Union desires to know what right or liberty of *ours* is assailed or endangered by the late Supreme Court decision in the Dred Scott case. We answer—That decision not merely assails but denies those rights which the Continental Congress of 1774 solemnly declared that our Revolutionary fathers had combined to maintain—"The rights of Human Nature." And when the Southern colonists were urged not to rush into rebellion because of a quarrel betwixt the British crown and the mob of Boston, they nobly answered that the liberties assailed by the Boston Port bill were *their* liberties—that the exercise of ungranted, despotic power which to-day destroyed the business and took away the livelihood of the people of Boston might tomorrow assail *their* dearest rights likewise. So they went to war for a preamble—risked their all in a contest which did not immediately concern them, because the *principle* involved was that which impelled every struggle between Freedom and Tyranny, Justice and Wrong.

It is true that Dred Scott is descended from Africans and is black, while we are descended from Europeans and are white; but "the rights of Human Nature" know no distinction founded on this difference of origin and color. If a black man commits a crime, he is punished for it just as though he were a white man; he ought therefore to have a voice in prescribing and modifying the penalties of crime. If he has

property, that property is taxed for the support of our Federal, State and Municipal Governments; he ought therefore to have a voice in determining the objects and extent of expenditure for the support of those Governments. (Can it be possible that a *Democrat* needs to be reminded of these elementary truths?) We rest for the security of our rights, then, not on the fallible and fickle breath of any casual majority, whether embodied in a constitution or not, but on the firm basis of Eternal Justice; and we realize that whatever assails or defies that basis renders all rights unstable, our own included. The Golden Rule does enjoin us to "do unto white men (only) as we would have them do to us;" the Good Samaritan was not commended for humanity to one of his own kith and kin, but for cherishing a wronged fellow being of a despised and detested race. "A false balance is an abomination," says the Good Book; and what can be more abhorrent to any true idea of equity than a judgment that the outcast and downtrodden, by reason of their wrongs, shall be denied a hearing in our Courts of Justice! Whose rights are secure when such justice is dealt out from the bench of our very highest tribunal? Will *The Union* explain?

UNION (WASHINGTON, D.C.)

The Supreme Court and the New York Tribune

March 28, 1857

In reply to the assaults of the New York Tribune upon the late decision of the Supreme Court of the United States in the case of Dred Scott, we inquired of that journal what right or liberty of its editor had been taken away by that decision, and in what respect the court had given any superiority of rights to a southern man over a northern man. The Tribune answers, not by mentioning any right or liberty which it has lost, or pointing out any partiality shown by the court to the South over the North, but by declaring, in general terms, that the decision is an attack upon those "rights of human nature" for which our fathers fought in the revolution. This is begging the whole question. Its reasoning is in a circle. First, it makes the decision an outrage because it attacks certain rights, and then it declares that it has assailed these rights because it is an outrage! It is very easy to write general homilies

upon humanity and the higher law, and to mourn over the tyranny of our government in not giving equal rights to men and women, black and white, minors and adults, but such general homilies are no sufficient reply to specific inquiries such as we propounded to the Tribune. If that journal means to say that our fathers fought for "human nature" in the sense of giving emancipation to the slaves, its proposition is directly in the teeth of all our history. Did Jefferson regard the Declaration of Independence as a declaration of freedom to his negro servants? Did Washington understand that all the slaves he owned were made free by the treaty of '83? Did Patrick Henry, when he cried "Give me liberty or give me death!" mean to say give me liberty for every Virginia negro, or give me death for myself? If these things were so, and these questions can be truthfully answered in the affirmative, how happened it that slavery was not immediately abolished by the success of our revolutionary struggle? How happened it that it continued on in all the States, and was recognised in the constitution? How happens it to exist now in fifteen States of the Union, and that in those States it is held to be beyond the political interference of anybody except the people of the States where it exists? What meant the fugitive-slave law, signed by Washington? How were new slave States admitted into the Union? Where was the need of a Missouri Compromise, allowing slavery on one side of an arbitrary line, and forbidding it on the other? Why was there any question in the case of this very Dred Scott, and why, instead of claiming his freedom under the act of 1820, did he not seek it under the Declaration of Independence, and by virtue of the "rights of human nature?" The Tribune utterly falls to meet the case we put to it. We regard it as admitting distinctly that no right of its own has been taken away by the decision referred to, and that no southern man has any superiority by that decision over any northern man; and we renew our wonder that, under such circumstances, it should assail the court as having made war upon northern rights or promulgated a "slaveholder's decision!" The truth is, the court was called to determine certain points of constitutional law, and the question before it was *not* what some fanatical theorist might regard as the "rights of human nature," or what a sober thinker even might regard as the rights of a white man, but what was the true meaning of the constitution and the law in reference to Dred Scott, who was a negro. "It is true that Dred Scott (says the Tribune) is descended from Africans and is black, while we are descended from Europeans and are white; but the 'rights of human nature' know no distinction founded on this difference of origin and color." We congratulate the

Tribune upon its full appreciation of its own color; but whether "the rights of human nature" recognise any distinction founded on color was not, it ought to remember, the question before the court. The question before the court was, whether any such distinction was recognised by the constitution and laws of this Union; and if the editor of the Tribune ever gets before the court on a question like that, we advise him to stick fast to his own color, and not presume too much upon "the rights of human nature."