

DRED SCOTT vs. SANDFORD

A Supreme Court Case that rocked a reeling nation...

In the 1830's, an army doctor in Missouri (a slave state), bought a slave by the name of Dred Scott. The doctor eventually received reassignment orders and moved his family and Scott (the slave) to Illinois (a free state) and, later, to the Wisconsin Territory. The Wisconsin Territory was not yet a state, but the land was considered "free" under the terms of the Missouri Compromise. The Missouri Compromise was a law passed by Congress in 1820 that stated that all land in the former Louisiana Purchase (that was not yet a state) that was north of the southern border of Missouri (36 30'N) would be "free" land that would be closed to slavery. Any land south of this line would be open to slavery.

Eventually, the doctor, his family, and his slaves, returned to Missouri to live. It was in Missouri that the doctor died. According to his will, his wife inherited all of her husband's property, including Dred Scott. In 1846, a group of abolitionists sued on behalf of Dred Scott (slaves had very few, if any legal rights in most slave states), claiming that he should be set free. The doctor's wife, of course, claimed he was still her property. What follows is a summary of both side's arguments, which eventually reached the Supreme Court of the United States.

DRED SCOTT'S ARGUMENTS IN SUPPORT OF FREEDOM

The Northwest Ordinance, passed by Congress in 1787, and the Missouri Compromise, passed in 1820, established that slavery was illegal – against the law - in both Illinois and the Wisconsin Territory. Since Dred Scott and voluntarily been taken to live in "free" territory, keeping him in a state of slavery was an illegal act and he should therefore be considered a free person.

SANDFORD'S ARGUMENTS THAT SCOTT IS STILL HER PROPERTY

Dred Scott is a slave and slaves are considered to be "property". The Fifth Amendment to the Constitution states that the government cannot take away a person's property without "due process of law" (this means without good reason and without following clearly established laws). Therefore, the government cannot take away a person's property by passing laws that deny rights in some parts of the country, but not in other parts of the nation. These types of laws would be considered arbitrary (not applied fairly) and therefore do not follow due process.

What do you think? Now you need to use the Constitution and make your decision based on your interpretation of the "supreme law of the land". Remember, your decision will impact the lives of millions...

Use the following sections of the Constitution to complete your work. Write your answers on the back of the page. The text pages are listed.

Page 258 – Article 4, section 2, clauses 1 and 3
Article 4, section 3, clause 2

Page 260 – Amendment 5

Page 261 – Amendment 10

If you need more background information on the Missouri Compromise, read the appropriate section on page 544 of your text.