

Dred Scott: Person or Property?

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Grade Level: 11th /12th grade

Subject: U.S. History/ American Government

Time: 1-3 (45 minute) classes

Please note: Depending on the level of class and the interest of the students, this lesson can be expanded to fit multiple class sessions.

Standards U.S. History USHC-3.1: Evaluate the relative importance of political events and issues that divided the nation and led to civil war, including the compromises reached to maintain the balance of free and slave states, the abolitionist movement, the Dred Scott case, conflicting views on states' rights and federal authority, the emergence of the Republican Party, and the formation of the Confederate States of America.

Standards American Government USG-2.4:_Evaluate significant American founding documents in relation to core political principles, including the Declaration of Independence, the Articles of Confederation, state constitutions, the United States Constitution, The Federalist Papers, and the Bill of Rights.

Standards American Government USG- 3.1: Evaluate the Constitution as the written framework of the United States government, including expression of the core principles of limited government, federalism, checks and balances, separation of powers, rule of law, popular sovereignty, republicanism, individual rights, freedom, equality, and self-government.

Objectives: The student will gain an understanding as to the Dred Scott v. Sanford decision and its impact on not only the U.S. Constitution, but also the impending Civil War.

Materials:

- Computer with internet access
- Keys to the Constitution
- Abraham Lincoln's Speech on the *Dred Scott* Decision

Instruction and Activity:

- Prior to the introduction of this lesson, it would be best if the students were familiar with the Fifth Amendment.
- With the knowledge of the Fifth Amendment, the teacher should direct the students to read the background on the *Dred Scott* (1856) case. (See link below)

Please note: Depending on reading abilities, the teacher should determine which selection to provide to the students.

- In groups of three, students should use their copy of Keys to the Constitution to answer the question: Was Dred Scott free or a slave? Once a decision is reached they should write a rationale, using their supporting documents, to support their opinion.

If needed, the teacher can summarize the lesson and inform the students of the U.S. Supreme Court's decision. However, if students are interested in the case and time permits, please continue by going into a more in-depth conversation of the case and its ramifications on the rule of law.

- Using either the excerpts from the decision or a summary of the decision (see links below) read the decision aloud as a class, defining key words and legal jargon as needed.
- Then read Abraham Lincoln's speech on the *Dred Scott* case (see link below).
- Use all readings to further divulge into the subject matter. The following guiding questions may assist class discussion:
 - Why did the Supreme Court rule that Scott was considered a slave?
 - How did the Fifth Amendment impact this ruling?
 - What implication will this ruling have on the institution of slavery?
 - What will need to happen in order for slavery to be abolished? (Preface the Thirteenth and Fourteenth Amendments)
 - How does this case illustrate that the Constitution is a "living and breathing document"?
 - How will this decision affect the Illinois Senate race in 1858 and the Presidential election of 1860?

Links:

Background on case (please choose appropriate reading level)

http://www.streetlaw.org/en/landmark/cases/dred_scott_v_sandford#Tab=Background

Excerpts from the Majority Opinion Decision

http://www.streetlaw.org/en/Page/545/Key_Excerpts_from_the_Majority_Opinion

Excerpts from the Minority Opinion Decision

http://www.streetlaw.org/en/Page/547/Key_Excerpts_from_the_Dissenting_Opinion

Summary of the Decision

http://www.streetlaw.org/en/Page/549/Summary_of_the_Decision

Assessment:

- Writing assignment: Was Dred Scott free or a slave?
- Participation in class discussion (if desired by teacher)

Abraham Lincoln's Speech on the *Dred Scott* Decision

"...We believe, as much as Judge Douglas, (perhaps more) in obedience to, and respect for the judicial department of government. We think its decisions on Constitutional questions, when fully settled, should control, not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution. But we think the *Dred Scott* decision is erroneous. We know the court that made it, has often over-ruled its own decisions, and we shall do what we can to have it to over-rule this. We offer no resistance to it..."

...I have said, in substance, that the *Dred Scott* decision was, in part, based on assumed historical facts which were not really true; and I ought not to leave the subject without giving some reasons for saying this; I therefore give an instance or two, which I think fully sustain me. Chief Justice Taney, in delivering the opinion of the majority of the Court, insists at great length that negroes were no part of the people who made, or for whom was made, the Declaration of Independence, or the Constitution of the United States.

On the contrary, Judge Curtis, in his dissenting opinion, shows that in five of the then thirteen states, to wit, New Hampshire, Massachusetts, New York, New Jersey and North Carolina, free negroes were voters, and, in proportion to their numbers, had the same part in making the Constitution that the white people had. He shows this with so much particularity as to leave no doubt of its truth; and, as a sort of conclusion on that point, holds the following language:

'The Constitution was ordained and established by the people of the United States, through the action, in each State, of those persons who were qualified by its laws to act thereon in behalf of themselves and all other citizens of the State. In some of the States, as we have seen, colored persons were among those qualified by law to act on the subject. These colored persons were not only included in the body of `the people of the United States,- by whom the Constitution was ordained and established; but in at least five of the States they had the power to act, and, doubtless, did act, by their suffrages, upon the question of its adoption...'"