

Dred Scott v. Sanford

1857

Chief Justice Taney delivered the opinion of the Court.

The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen? One of which rights is the privilege of suing in a court of the United States in the cases specified in the constitution...

The words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "citizens" in the constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them.

It is not the province of the court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted.

In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits, and the rights of citizenship as a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all of the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State. For, previous to the adoption of the constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character of course was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the constitution of the United States...

It is very clear, therefore, that no State can, by any act or law of its own, passed since the adoption of the constitution, introduce a new member into the political community created by the constitution of the United States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the constitution brought into existence, but were intended to be excluded from it.

The question then arises, whether the provisions of the constitution, in relation to the personal rights and privileges to which the citizen of a State should be entitled, embraced the negro African race, at that time in this country, or who might afterwards be imported, who had then or should afterwards be made free in any State; and to put it in the power of a single State to make him a citizen of the United States, and

endue him with the full rights of citizenship in every other State without their consent? Does the constitution of the United States act upon him whenever he shall be made free under the laws of a State, and raised there to the rank of a citizen, and immediately clothe him with all the privileges of a citizen in every other State, and in its own courts?

The court think the affirmative of these propositions cannot be maintained. And if it cannot, the plaintiff in error could not be a citizen of the State of Missouri, within the meaning of the constitution of the United States, and, consequently, was not entitled to sue in its courts.

It is true, every person, and every class and description of persons, who were at the time of the adoption of the constitution recognized as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the constitution and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens as to rights of person and rights of property; it made him a citizen of the United States...

In the opinion of the court, the legislation and histories of the times, and the language used in the declaration of independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument...

It is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the declaration of independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation...

But there are two clauses in the constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the government then formed.

One of these clauses reserves to each of the thirteen States the right to import slaves until the year 1808, if it thinks proper...And by the other provision the States pledge themselves to each other to maintain the right of property of the master, by delivering up to him any slave who may have escaped from his service, and be found within their respective territories...

The only two provisions which point to them and include them, treat them as property, and make it the duty of the government to protect it; no other power, in relation to this race, is to be found in the constitution; and as it is a government of special, delegated powers, no authority beyond these two provisions can be constitutionally exercised. The government of the United States had no right to interfere for any other purpose but that of protecting the rights of the owner, leaving it altogether with the several States to deal with this race, whether emancipated or not, as each State may think justice, humanity, and the interests and safety of society, require. The States evidently intended to reserve this power exclusively to themselves...

Upon a full and careful consideration of the subject, the court is of opinion, that, upon the facts stated...Dred Scott was not a citizen of Missouri within the meaning of the constitution of the United States, and not entitled as such to sue in its courts; and, consequently, that the circuit court had no jurisdiction of the case, and that the judgment on the plea in abatement is erroneous...

We proceed...to inquire whether the facts relied on by the plaintiff entitled him to his freedom...

The act of Congress, upon which the plaintiff relies, declares that slavery and involuntary servitude, except as a punishment for crime, shall be forever prohibited in all that part of the territory ceded by France, under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude and not included within the limits of Missouri. And the difficulty which meets us at the threshold of this part of the inquiry is whether Congress was authorized to pass this law under any of the powers granted to it by the Constitution; for, if the authority is not given by that instrument, it is the duty of this Court to declare it void and inoperative and incapable of conferring freedom upon anyone who is held as a slave under the laws of any one of the states.

The counsel for the plaintiff has laid much stress upon that article in the Constitution which confers on Congress the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States"; but, in the judgment of the Court, that provision has no bearing on the present controversy, and the power there given, whatever it may be, is confined, and was intended to be confined, to the territory which at that time belonged to, or was claimed by, the United States and was within their boundaries as settled by the treaty with Great Britain and can have no influence upon a territory afterward acquired from a foreign government. It was a special provision for a known and particular territory, and to meet a present emergency, and nothing more...

We do not mean, however, to question the power of Congress in this respect. The power to expand the territory of the United States by the admission of new states is plainly given; and in the construction of this power by all the departments of the government, it has been held to authorize the acquisition of territory, not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission...

It may be safely assumed that citizens of the United States who migrate to a territory belonging to the people of the United States cannot be ruled as mere colonists, dependent upon the will of the general government, and to be governed by any laws it may think proper to impose. The principle upon which our governments rest, and upon which alone they continue to exist, is the union of states, sovereign and independent within their own limits in their internal and domestic concerns, and bound together as one people by a general government, possessing certain enumerated and restricted powers, delegated to it by the people of the several states, and exercising supreme authority within the scope of the powers granted to it, throughout the dominion of the United States. A power, therefore, in the general government to obtain and hold colonies and dependent territories, over which they might legislate without restriction, would be inconsistent with its own existence in its present form. Whatever it acquires, it acquires for the benefit of the people of the several states who created it. It is their trustee acting for them and charged with the duty of promoting the interests of the whole people of the Union in the exercise of the powers specifically granted...

But the power of Congress over the person or property of a citizen can never be a mere discretionary power under our Constitution and form of government. The powers of the government and the rights and privileges of the citizen are regulated and plainly defined by the Constitution itself. And, when the territory becomes a part of the United States, the federal government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen strictly defined and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separated from the citizens of the United States and the duties it owes them under the provisions of the Constitution. The territory, being a part of the United States, the government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the federal government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved...

These powers, and others, in relation to rights of person, which it is not necessary here to enumerate, are, in express and positive terms, denied to the general government; and the rights of private property have been guarded with equal care. Thus the rights of property are united with the rights of person and placed on the same ground by the Fifth Amendment to the Constitution, which provides that no person shall be deprived of life, liberty, and property without due process of law. And an act of Congress which deprives a citizen of the United States of his liberty or property, without due process of law, merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law...

It seems, however, to be supposed that there is a difference between property in a slave and other property and that different rules may be applied to it in expounding the Constitution of the United States. And the laws and usages of nations, and the writings of eminent jurists upon the relation of master and slave and their mutual rights and duties, and the powers which governments may exercise over it, have been dwelt upon in the argument.

But, in considering the question before us, it must be borne in mind that there is no law of nations standing between the people of the United States and their government and interfering with their relation to each other. The powers of the government and the rights of the citizen under it are positive and practical regulations plainly written down. The people of the United States have delegated to it certain enumerated powers and forbidden it to exercise others. It has no power over the person or property of a citizen but what the citizens of the United States have granted. And no laws or usages of other nations, or reasoning of statesmen or jurists upon the relations of master and slave, can enlarge the powers of the government or take from the citizens the rights they have reserved. And if the Constitution recognizes the right of property of the master in a slave, and makes no distinction between that description of property and other property owned by a citizen, no tribunal, acting under the authority of the United States, whether it be legislative, executive, or judicial, has a right to draw such a distinction or deny to it the benefit of the provisions and guaranties which have been provided for the protection of private property against the encroachments of the government.

Now, as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every state that might desire it, for twenty years. And the government in express terms is pledged to protect it in all future time if the slave escapes from his owner. That is done in plain words -- too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

Upon these considerations it is the opinion of the Court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned is not warranted by the Constitution and is therefore void; and that neither Dred Scott himself, nor any of his family, were made free by being carried into this territory; even if they had been carried there by the owner with the intention of becoming a permanent resident.