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Dred Scott v. Sandford (1857)

Congressional folly and presidential ineptitude contributed to the sectional crisis of the 1850s. Then the Supreme Court, far from calming the situation, infuriated the North with its controversial proslavery decision in the Dred Scott case.

Dred Scott had been held as a slave in Missouri and then taken to the free territory of Wisconsin where he lived for two years before returning to Missouri. Arguing that his period of residence on free soil made him a free citizen, Scott went to a Missouri court and sued for his freedom. The case was appealed to the Supreme Court, which rendered its decision in March 1857 only two days after Buchanan was sworn in as president. Presiding over the Court was Chief Justice Roger Taney, a southern Democrat.

A majority of the Court decided against Scott and gave the following reasons:

1. Dred Scott had no right to sue in a federal court because the Framers of the Constitution did not intend people of African descent to be U.S. citizens.
2. Congress did not have the power to deprive any person of property without due process of law; and, if slaves were a form of property, then Congress could not exclude slavery from any federal territory.
3. Because Congress' law of 1820 (the Missouri Compromise) excluded slavery from Wisconsin and other northern territories, that law was unconstitutional.

Southern Democrats were delighted with the Court's ruling, while northern Republicans were shocked and indignant. In effect, the Supreme Court declared that all parts of the western territories were open to slavery. Republicans denounced the Dred Scott decision of "the greatest crime in the annals of the republic." Because of the timing of the decision, right after Buchanan's inauguration, many northerners suspected that the Democratic president and the Democratic majority on the Supreme Court, including Taney, had secretly planned the Dred Scott decision, hoping that it would settle the slavery question once and for all. The decision increased northerners' suspicions of a slave power conspiracy and induced thousands of former Democrats to vote Republican.

Northern Democrats like Senator Douglas were left with the almost impossible task of supporting popular sovereignty without repudiating the Dred Scott decision. Douglas' hopes for a sectional compromise and his ambitions for the presidency were both in jeopardy.

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860 → Election results. While Douglas campaigned across the country, Lincoln confidently remained at home in Springfield, Illinois, meeting with Republican leaders and giving statements to the press. The election results were predictable. Lincoln carried every one of the free states of the North, which represented a solid majority of 59 percent of the electoral votes. He won only 39.8 percent of the popular vote, however, and would therefore be a minority president. Breckinridge, the southern Democrat, carried the Deep South, leaving Douglas and Bell with just a few electoral votes in the border states.

Together, Douglas as a northern Democrat and Breckinridge as a southern Democrat received many more popular votes than Lincoln, the Republican. Nevertheless, the new political reality was that the populous free states had enough electoral votes to select a president without the need for a single electoral vote from the South.

Secession of the Deep South

The Republicans controlled neither the Congress nor the Supreme Court. Even so, the election of Lincoln was all that southern secessionists needed to call for immediate disunion. In December 1860 a special convention in South Carolina voted unanimously to secede. Within the next six weeks, other state conventions in Florida, Georgia, Alabama, Mississippi, Louisiana, and Texas did the same. In February 1861, representatives of the seven states of the Deep South met in Montgomery, Alabama, and created the Confederate States of America. The constitution of this would-be southern nation was similar to the U.S. Constitution, except that the Confederacy placed limits on the government's power to impose tariffs and restrict slavery. Elected president and vice president of the Confederacy were Senator Jefferson Davis of Mississippi and Alexander Stephens of Georgia.

Crittenden compromise. A lame-duck president (a leader facing imminent retirement), Buchanan had five months in office before President-elect Lincoln was due to succeed him. Buchanan was a conservative who did nothing to prevent the secession of the seven states. Congress was more active. In a last-ditch effort to appease the South, Senator John Crittenden of Kentucky proposed a constitutional amendment that would guarantee the right to hold slaves in all territories south of 36°30'. Lincoln, however, said that he could not accept this compromise because it violated the Republican position against extension of slavery into the territories.

Southern whites who voted for secession believed they were acting in the tradition of the Revolution of 1776. They argued that they had a right to national independence and to dissolve a constitutional compact that no longer protected them from "tyranny" (the tyranny of northern rule). Many of them also thought that Lincoln, like Buchanan, might permit secession without a fight. As we shall see, those who thought this had badly miscalculated.

New Questions and Issues.

Despite their rapid growth, the new states of the West had small populations relative to those of the other two sections. To enhance their limited political influence in Congress, western representatives bargained with politicians from other sections to obtain their objectives. Of greatest importance to the western states were: (1) "cheap money" (easy credit) from state banks rather than from the Bank of the United States, (2) land made available at low prices by the government, and (3) improved transportation.

On another issue, slavery, westerners could not agree whether to permit it or to exclude it. Those settling territory to the south wanted slavery for economic reasons (labor for the cotton fields), while those settling to the north had no use for slavery. In 1819, when the Missouri Territory applied to Congress for statehood, the slavery issue became a subject of angry debate.

The Missouri Compromise

Ever since 1791-1792, when Vermont entered the Union as a free state and Kentucky entered as a slave state, politicians in Congress had attempted to preserve a sectional balance between the North and the South. Population in the North grew more rapidly than in the South, so that by 1818 the northern states held a majority of 105 to 81 in the House of Representatives. In the Senate, however, the votes were divided evenly, since in 1819 there was an even balance of 11 slave and 11 free states. So long as this balance was preserved, southern senators could block legislation that threatened the interests of their section.

Missouri's bid for statehood alarmed the North because slavery was well established there. If Missouri came in as a slave state, it would tip the political

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As a result of the Gold Rush, in 1849, Californians drafted a constitution for their new state—a constitution that banned slavery. Even though President Taylor was a southern slaveholder himself, he supported the immediate admission of both California and New Mexico as free states. (At this time, however, the Mexican population of the New Mexico territory had little interest in applying for statehood.)

Taylor's plan sparked talk of secession among the "fire-eaters" (radicals) in the South. Some southern extremists even met in Nashville in 1850 to discuss secession. By this time, however, the astute Henry Clay had proposed yet another compromise for solving the political crisis:

- Admit California to the Union as a free state
- Divide the remainder of the Mexican Cession into two territories—Utah and New Mexico—and allow the settlers in these territories to decide the slavery issue by majority vote, or popular sovereignty
- Give the land in dispute between Texas and the New Mexico territory to the new territories in return for the federal government assuming Texas' public debt of \$10 million
- Ban the slave trade in the District of Columbia but permit whites to hold slaves as before
- Adopt a new Fugitive Slave Law and enforce it rigorously

In the ensuing Senate debate over the compromise proposal, the three congressional giants of their age—Henry Clay of Kentucky, Daniel Webster of Massachusetts, and John C. Calhoun of South Carolina—delivered the last great speeches of their lives. (Born in the same year, 1782, Webster and Calhoun would also die in the same year, 1850; Clay died two years later.) Webster courageously argued for compromise in order to save the Union, and in so doing alienated the Massachusetts abolitionists who had supported him. Calhoun argued against compromise and insisted that the South be given equal rights in the acquired territory.

Northern opposition to compromise came from younger antislavery lawmakers, such as Senator William H. Seward of New York, who argued that there was a higher law than the Constitution. The opponents managed to prevail until the sudden death in 1850 of President Taylor, who had also opposed Clay's plan. Succeeding him was a strong supporter of compromise, Vice President Millard Fillmore. Stephen A. Douglas, a politically astute young senator from Illinois, engineered different coalitions to pass each part of the compromise separately. President Fillmore readily signed the bills into law.

The passage of the Compromise of 1850 bought time for the nation. Because California was admitted as a free state, the compromise added to the North's political power, and the political debate deepened the commitment of many northerners to saving the Union from secession. On the other hand, parts

of the compromise became sources of controversy, especially the fugitive slave law and popular sovereignty.

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The Kansas-Nebraska Act (1854)

With the Democrats firmly in control of national policy both in the White House and in Congress, a new law was passed that was to have disastrous consequences. Senator Stephen A. Douglas of Illinois devised a plan for building a railroad and promoting western settlement (while at the same time increasing the value of his own real estate holdings in Chicago). Douglas needed to win southern approval for his plan to build a transcontinental railroad through the central United States, with a major terminus in Chicago. (Southern Democrats preferred a more southerly route for the railroad.) The senator obtained southern approval for his railroad route by introducing a bill on another matter. This bill proposed that the Nebraska Territory be divided into the Kansas Territory and Nebraska Territory, and the settlers there be free to decide whether or not to allow slavery. Since these territories were located north of the 36°30' line, Douglas's bill gave southern slave owners an opportunity that previously had been closed to them by the Missouri Compromise.

After three months of bitter debate, both houses of Congress passed Douglas' bill as the Kansas-Nebraska Act of 1854, and President Pierce signed it into law.

Passage of the Kansas-Nebraska Act renewed the sectional controversy that had been at least partly resolved by the Compromise of 1850. In effect, it repealed the Compromise of 1820. Northern Democrats condemned the law as a surrender to the "slave power." Furthermore, a new political party emerged whose membership was entirely northern and western. Its overriding purpose was to express opposition to the spread of slavery in the territories. This new antislavery party called itself the Republican party.

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balance in the South's favor. Furthermore, Missouri was the first part of the Louisiana Purchase to apply for statehood. Southerners and northerners alike worried about the future status of other new territories applying for statehood from the rest of the vast Louisiana Purchase.

Tallmadge amendment. Representative James Tallmadge from New York ignited the debate about the Missouri question by proposing an amendment to the bill for Missouri's admission. The amendment called for (1) prohibiting the further introduction of slaves into Missouri and (2) requiring the children of Missouri slaves to be emancipated at the age of 25. If adopted, the Tallmadge Amendment would have led to the gradual elimination of slavery in Missouri. The amendment was defeated in the Senate as enraged southerners saw it as the first step in a northern effort to abolish slavery in all states.

Clay's proposals. After months of heated debate in Congress and throughout the nation, Henry Clay won majority support for three bills that, taken together, represented a compromise:

1. Missouri was to be admitted as a slaveholding state.
2. Maine was to be admitted as a free state.
3. In the rest of the Louisiana Territory north of latitude 36° 30', slavery was prohibited.

Both houses passed the compromise plan, and President Monroe added his signature in March 1820 (one full year after the Tallmadge Amendment had touched off the controversy).

Aftermath. Sectional feelings on the slavery issue subsided after 1820. The Missouri Compromise preserved sectional balance for over 30 years and provided time for the nation to mature. Nevertheless, if an era of good feelings existed, it was badly damaged by the storm of sectional controversy over Missouri. After this political crisis, Americans were torn between feelings of nationalism (loyalty to the Union) on the one hand and feelings of sectionalism (loyalty to one's own region) on the other.

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