Dred Scott and Abortion: History Repeats Itself

by Steve Cakouros

I am delighted that I serve God at Central Presbyterian Church, a church in St. Louis, Missouri, which had a 19th century member who gave Dred Scott the freedom he deserved and with that proclaimed the equality of all men. Scott lived from 1795 to 1858 and thus he never witnessed the Civil War. However, his case, which was brought before the Supreme Court, contributed to an increase in the number of abolitionists. The decision handed down by the our highest court, which denied Scott the freedom he was entitled to, convinced many on both sides of the issue that conflict was inevitable.

More important than even slavery is the fact that the court at this time overruled Congress which had said that slavery was to be outlawed in the territories owned by the United States. This is significant because the Congress has the right to pass laws. Unless of course the Supreme Court can show that a law passed by Congress is unconstitutional. This is what the Supreme Court succeeded in doing by putting forward a specious argument based on the Fifth Amendment which prohibits the government from interfering with personal property rights.

Scott had lived as a slave for short periods in states and territories that had declared slavery illegal. When he attempted to buy his own freedom he was rebuffed. He then sued in court on the basis that he had been owned illegally while traveling with his master. Presiding over this miscarriage of justice was Justice Roger B. Taney, a staunch defender of slavery. The court at that time was stacked with pro-slavery justices. Most of Scott's legal fees were donated by his boyhood friend Peter Blow, his master's son, who purchased Scott and his wife in order to set them free. Scott died shortly after his manumission.

The Constitution, which surely is the greatest document penned in modern times, has on occasion fallen into the wrong hands. The following is a brief analysis of Justice Taney's ruling from the High Court on the Dred Scott case which proves this thesis. His ruling remains to this day a visible proof that education and breeding do not always keep company with wisdom and justice. Justice Taney passed down his ruling on March 4, 1857. Immediately upon reading it is obvious that he was determined to read the Constitution in a way that would forbid the Negro slave Dred Scott to ever rising above his unenviable place in history. Taney wrote for the majority. "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 be entitled to all the rights and privileges and immunities, guaranteed by that instrument to the citizen?"

Justice Taney was not given to equivocation. No one could accuse him of ambiguity. As he saw it, the founding fathers in excluding blacks were not short-sighted. They had intentionally excluded the Negro race from the privileges and immunities guaranteed to whites. In other words if the founding fathers looked down on Negroes and slighted them, calling a Negro three-fifths of a person, then we must do the same.

One of the rights afforded citizens is the right to sue in a United States Court. Justice Taney concluded therefore that Dred Scott would not be able acquire his freedom since his owner refused to grant Scott freedom. Since he could not sue in court he had no alternative but to accept his plight and remain the property of his master. Taney stated that even if Scott were given his freedom that would not confer on him the right to sue in a U.S. court because a Negro cannot be both a citizen and a Negro. Scott's national origin and his racial distinction disqualified him.

If he had money it may be that Dred Scott would have chosen to buy his freedom, or even be given it as a gift, but he could not obtain his freedom through a U.S. court because all courts were closed to him. Why? He was a Negro, and thus he has no legal right to sue in a U.S. court no matter what the subject of the lawsuit. **A Negro could not bring suit in a federal court even if he was a citizen of a particular state, for one may be a citizen of a particular state and still not be a citizen of the United States.** A Negro was to the court system at that time what a non-Muslim is in countries that honor the Koran. A non-Muslim cannot sue a Muslim.

Taney also stated that a state cannot confer U.S. citizenship on someone; therefore the Scott case was settled beforehand. Taney applied this to all citizens, "It does not by any means follow that, because he has all the rights and privileges of a citizen of a state, that he must be a citizen of the United States."

Justice Taney takes his argument further by asserting that the members of the Negro race were present when the Constitution was written and accepted, but they were not included in its provisions. According to his logic, this must mean that they should never be included in its provisions. He did not call for change.

> 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 descendents, 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.

The honorable justice would have to prove that the Negro was not, or could not at that time, be included in the Declaration. His argument is accomplished through silence. Taney says in effect that Negroes were not included in the Declaration because nothing specific was written about them when the document was drafted. If that were the case then the Jews, Chinese, etc. would also be excluded from citizenship because they are not mentioned either. The Negro according to Taney is inferior. Therefore Taney goes on to say that **". . . he might justly and lawfully be reduced to slavery for his benefit."** The Negro could not have been included in the wording of the Declaration because the founding fathers determined that they were inferior due to an unfamiliarity with the structures of a civilized government. In this context the words "all men are created equal" are subjected to a very narrow interpretation. Those timeless words might, he thought, be applied to Negroes in 1857 in a way that is different from the way they were in 1776, but they could not be applied to them at the time the Declaration was written and signed. Therefore he concluded that **". . . it is too clear for dispute that the enslaved African race**

as not intended to be included and formed no part of the people who framed the Declaration . . ."

Following this line of thought Justice Taney declares that the fathers were so advanced in learning that if they wanted to include the Negro in the American way of life they would have made it clear. It is as if they were prophets that could not be second-guessed. Taney says of the founders of America,

> They perfectly understood the meaning of the language they used and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the Negro race, which by common consent had been excluded from civilized governments and the family of nations and doomed to slavery . . . The unhappy black race were separated from the white race by indelible marks, and laws long before established, and were never thought of except as property and when the claims of the owner or the profit of the trader were supposed to need protection.

The august jurist assumed our acceptance of his judgment on what the founding fathers were thinking at the time of the Declaration. He also presumes that we agree with his argument that the Declaration by not including the Negro race had automatically excluded them. Did that apply to Eskimos, too, who were not present in Colonial America? If we follow his line of reasoning that would mean that only the genealogical descendents of the British or European founding fathers could become citizens of the United States of America because there were no signers to the Declaration who were Mongoloid. The naturalizing of various ethnic groups would then have to be restricted to Europeans.

Justice Taney, after stating the above, proceeded to one of two arguments to support his case even further. These were used by him to silence all who might protest against his way of reasoning. He referred two clauses in the Constitution. These clauses he believes prove that the status of the Negro is irreversible as least as far as the Constitution is concerned. He said, "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 government when formed**." He noted that "One of these clauses reserves to each of the thirteen states the right to import slaves until the year 1808."

The other clause he brings up **required all the states to honor as the personal property of a master any slave so long as the newly formed American government lasted**. In other words there is no room for change. The Constitution is like the Ten Commandments or the Laws of Medes and Persians which were not subject to change.

The two clauses allow Justice Taney to draw a conclusion **". . . for certainly these two clauses were not intended to confer on them [the slaves] or their posterity the blessings of liberty or any of the personal rights so carefully provided for the citizen . . ."** In other words the Constitution would have to be changed if a Negro is to become citizen of the United States but that will pose a problem because of the reference Taney has made to the fact that slaves must be thought of as property and that as far as he was concerned was irreversible. This brings before us the Fifth Amendment mentioned above which denies the government any right to our

properties without it rendering a just compensation. It is here that Taney refuses to distinguish between a piece of inanimate property and slave property.

Justice Taney and the Supreme Court's decision led to war. To use an expression taken from preacher Samuel Davies, America would bleed from a thousand veins; her wound would be incurable.

According to his Taney's logic, Americans do not have to distinguish between property and property. When a person is piece of property, they are the property of the owner in the same way that a pair of shoes is property. And what do things owned have in common? All property of whatever kind is subject to the will of the people who own it. Even the government cannot decide on what we should do with our property. The government when it comes to property rights **". . . has no power over the person or property of a citizen but what the citizens of the United States have granted."** But what if there are two kinds of property? Taney was quick to answer, "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." He joined the ranks of the tyrant Draco and brings down on him the scorn of Pericles and Solon, when he declared with impunity –

> 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 Sates, 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 guarantees which have been provided for the protection of private property against the encroachment of the government.

This kind of reasoning allowed the high court to overrule Congress which had declared the territories slave-free. The South had won! In other words the Fifth Amendment which guaranteed the right of private property, which could not be abrogated by Congress, was used to counter Congress' decision that the central government could determine whether a territory or a state could be slave-free. The southern victory pivoted almost entirely on a refusal to draw a distinction between a human being and a thing. The government was told in no uncertain terms how it should define property and the Congress was told to not interfere with the court's decision. Everything in Taney's argument pivots upon that consideration. However, Congress does the right to define what property is, and later it did so in the Emancipation Proclamation which freed the slaves.

This argument about one race not being included in the Declaration of Independence and the U.S. Constitution were only a smoke-screen designed by the Supreme Court in order to deny some their rights because property rights superseded human rights. The same deceptive reasoning is now being used to defend abortion-on-demand. History is repeating itself.

THE CORRELATION

The kind of reasoning that allowed Justice Roger B. Taney to suppress the rights of another human being has surfaced again in the highest appellate court in America. If the actions and decisions of Justice Taney were arbitrary, the decision of the court regarding Roe v. Wade [1973] in which the unborn are terminated at will may also be called arbitrary. What cannot be justified now receives the praise and support of politicians, women's groups, medical organizations, and even churches. The unborn child is nothing more than the property of the owner, the parent or parents involved. We may do with property what we wish. Taney used the Constitution to exclude a portion of the human race. His litmus test for determining what rights a slave deserved have been stated above. His ruling has since been discredited by accomplishments coming from African-Americans and their hearty acceptance of the U.S. Constitution. A Negro now sits on the Highest Court. The ruling of Justice Taney has been discredited. He must not have not realized that some of the African peoples had attained a high level of civilization. Augustine, the greatest man between St. Paul and John Calvin, came from North Africa and likely had a dark complexion. The present day court which has ruled in favor of abortion has also closed its eyes to the facts of Roe v. Wade. This is a disgrace.

America must decide. Is the unborn a person or a thing? The onus is on the court to demonstrate through science that the unborn is in fact not a person. A constitutional amendment must be passed through Congress and ratified by the states to justify past rulings on abortion by the high court. An amendment is needed because a person is already protected by the Constitution. This is the same Constitution that in its 13th and 14th amendments forbids us to treat persons as if they are without rights and are only property. Justice Harry A. Blackmun when ruling for the court in Roe v. Wade (seven of the nine justices favored his decision, the same as in the unfavorable Scott ruling) from an unscientific and arbitrary position divided pregnancies into trimesters. In this way he could allow the court to permit for any reason at all an abortion if the mother so desired it. No state could interfere with the privacy of a woman during the first three months of pregnancy since it was assumed that during that time the child was not alive. This calls for a new hearing on the matter since that idea is not based on current, reliable science.

A woman can without consulting anyone do away with what was growing inside her because whatever it is, it cannot be called a living person during the first three months after conception. State laws according to the court may interfere only during the so-called second and third trimesters. It would not be unfair to say that this was arbitrary and motivated by the court's desire to satisfy a vocal minority. Who told the Supreme Court that the viability or "movement" of a child (which supposedly takes place in mothers as early as 18 weeks) is the only way to determine if life has begun? Had not the court heard of premature births which result in sustainable life increasingly earlier in pregnancies? Who told the court to divide life in the womb into trimesters? What scientist gave the court the right to do this?

Roe v. Wade left no room for future science to establish that the beginning of life may not have anything to do with movement, or that movement may be imperceptible. Representing the court, Justice Blackmun, with careless disregard for human life, ruled on in advance what science might someday discover about the beginning of life. He passed his ruling using an approach to science that Christians impute to those who follow the occult. What he really

wanted to do was to allow woman a certain kind of privacy not guaranteed to her by the Constitution. The key word is "privacy." This word as used by the Supreme Court now covers a multitude of sins. Privacy became an issue in Griswold v. Connecticut a case that dealt with a woman's right to prevent a pregnancy through contraception. Supposedly the right of privacy is found in the penumbras of other protections. Penumbra is an astronomical term that allows one to see the sun partially obscured. This became the "in" word for law students. It gave rise to the idea that privacy is the hidden reason why the Constitution was written especially when it comes to sex and reproduction.

The high court now sits beneath an oversized umbrella called penumbra. It has holes in it and is leaking. In a recent ruling, Lawrence v. Texas in which sodomy laws were cast down, Justice Scalia may have done something unprecedented. When speaking for those who did not vote in favor of over-ruling the Texas sodomy laws he did not just record his dissent (accompanied by Justices William Rehnquist and Clarence Thomas). He actually read it from the bench. His complaint was that by ruling against the sodomy laws of Texas on the basis of privacy, **the court had opened the door to anything deemed vile by decent people as long as it were done in private.**

In Roe v. Wade Justice Blackmun handed down an arbitrary ruling. His court was fed lies by the Kinsey Report which said that women were having abortions in large numbers and were not emotionally ill-affected because of them. However it was noted that self-induced "illegal" abortions contributed to maternal mortality. Dr. Alfred Kinsey has since been discredited. The notorious sexologist was not only a sadomasochist; he intentionally corrupted statistics on abortion and other subjects vital to Americans' interests. Abortion became popular procedure after the high court ruled in its favor of it even though the ruling was based on faulty data. Now, thanks to Justice Blackmun and those who voted with him, millions of thoughtless women for personal and selfish reasons are willing to callously destroy human life. The ruling of the court that allows them to conduct their affairs in such a heartless manner was based on opinion and spurious science.

Roe v. Wade represents in America the worst and the most far reaching manipulation of the Constitution to date. It is the kind of science that we find in alchemist Paracelsus and occultist Giordano Bruno in the 16th century, and also in those who coolly conducted "scientific" experiments in Dachau and Auschwitz concentration camps. History caught up with them. It will catch up with the Blackmun court also. It will be proven that the Supreme Court's decision in Roe v. Wade was as misguided as in the Dred Scott case.

Therefore, from now on, we regard no one according to the flesh. Even though we have known Christ according to the flesh, yet we know Him thus no longer. 2 Corinthians 5:16

For you formed my inward parts; you covered me in my mother's womb. Psalm 139:13