

**Charles H Wright African American Museum
Underground Railroad/Library of Congress
Slavery in the United States:**

**Defining United States Supreme Court Cases
Dred Scott v Sanford (1857) 60 US 393**

Raymond W. Walker Wayne RESA – MCHE –
Grosse Ile township Public Schools – High School



Dred Scott

Credit: Missouri Historical Society



Harriett Scott

Lesson Title:

Supreme Court Decision of Dred Scott v. Sanford (1857) 60 U.S. 393

Lesson Overview:

• **Narrative:**

This lesson is designed for students to analyze and explore some of the issues, events, and legislation preceding the Civil War. This Court case raised questions over the constitutionality of the Missouri Compromise, black American citizenship, individual property rights, the expansion of slavery into territories, and the issue of slavery.

The lesson will require learners to use primary sources – what is a primary source, their value, and how to analyze them. This lesson introduces students to primary sources -- what they are, their great variety, and how they can be analyzed. Students will then be given an opportunity role play in a historical context.

Finally, this lesson plan is differentiated instruction for classrooms where there are multiple levels of learners. The lesson plan uses the best teaching practices for general and special educators. The following books may be helpful resources: William N. Bender *Differentiated Instruction for Students with Learning Disabilities: Best Teaching Practices for General and Special Educators*; Amy Benjamin *Differentiated Instruction: A Guide for Middle and High School Teachers*, Amy Benjamin *Writing in the Content Areas*; and Robert J. Marzano *Classroom Instruction that Works*.

- **Objectives:**

This case study will provide students with opportunities to

1. Explore the US Constitution
2. Understand the processes and procedures of state and federal court systems.
3. Examine the role of the Supreme Court in interpreting the Constitution.
4. Examine the opinions and rationale of the Supreme Court Justices.
5. Demonstrate critical thinking, writing, and speaking skills.

- **Time Required:**

This lesson will take approximately 2 to 3 class periods – a class period being 55 minutes in length,

- **Grade Level:**

High School (9-12) – American History or Government courses. (The lesson plans could be adopted for middle school American History).

- **Topic or Era:** Pre Civil War America – from 1789 to 1857

Michigan Content Expectations:

High School Course Expectations (HSCE)

Civics

**C2 ORIGINS AND FOUNDATIONS OF GOVERNMENT
OF THE UNITED STATES OF AMERICA**

2.2.3 Use past and present policies to analyze conflicts that arise in society due to competing constitutional principles or fundamental values (e.g., liberty and authority, justice and equality, individual rights, and the common good). (See USHG 6.3.2; 8.2.4; 8.3.1; 9.2.2)

2.2.5 Foundational Values and Constitutional Principles of American Government (See USHG 6.1.2; 6.3.2; 7.1.3; 8.3)

**C3 STRUCTURE AND FUNCTIONS OF GOVERNMENT IN THE
UNITED STATES OF AMERICA**

3.1.3 Analyze the purposes, organization, functions, and processes of the judicial branch as enumerated in Article III of the Constitution.

3.2.2 Use court cases to explain how the Constitution is maintained as the supreme law of land (e.g., *Marbury v. Madison*, *Gibbons v. Ogden*, and *McCulloch v. Maryland*).

3.3 Structure and Functions of State and Local Governments

C5 CITIZENSHIP IN THE UNITED STATES OF AMERICA

5.3 Rights of Citizenship

C6 CITIZENSHIP IN ACTION

6.1.2 Locate, analyze, and use various forms of evidence, information, and sources about a significant public policy issue, including primary and secondary sources, legal documents (e.g., Constitutions, court decisions, and state law), non-text based information.

6.1.5 Make a persuasive, reasoned argument on a public issue and support using evidence (E.g. historical and contemporary examples), constitutional principles, and fundamental values of American constitutional democracy; explain the stance or position.

Economics

E1 THE MARKET ECONOMY

1.4.4 **Functions of Government** – Explain the various functions of government in a market economy including the provision of public goods and services, the creation of currency, the establishment of property rights,

English Language Arts

Reading Standards for Informational Text 6-12

Key Ideas and Details:

Anchor Standard One: **Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.**

Anchor Standard Four: **Interpret words and phrases as they are used in a text, including determining technical, connotative, and figurative meanings, and analyze how specific word choices shape meaning or tone.**

Anchor Standard Six: **Use technology, including the internet, to produce and publish writing and to interact and collaborate with others.**

Research to Build and Present Knowledge

Anchor Standard Seven: **Conduct short as well as more sustained research projects based on focused questions, demonstrating understanding of the subject under investigation.**

Supplemental Middle School Content Standards

F1.3 Describe the consequences of the American Revolution by analyzing the

U3 USHG ERA 3 – Revolution and the New Nation

U3.3 Creating New Government(s) and a New Constitution

8 – U4.2.2 the Institution of Slavery –.

U5 USHG ERA 5 – Civil War and Reconstruction (1850-1877)
U5.1 the Coming of the Civil War

Preparation:

- Introduction Materials using Primary Resources:

Using Primary Sources, Why Use Primary Sources/ Citing Primary Sources/ Copyright and Primary Sources/ Finding Primary Sources/ Teacher's Guides and Analysis Tool <http://www.loc.gov/teachers/usingprimarysources/>

- Textbook and Professional Resources:

Textbooks:

We the People: The Citizen and the Constitution, Center for Civic Education.

Magruder's American Government, Prentice Hall Publication

Government, McDougal-Littell.

Historic Supreme Court Case Decision, McDougal-Littell.

The Supreme Court and Individual Rights, 2nd edition, Elder Witt, Congressional Quarterly

Edupress Quick Flip Questions for Critical Thinking – Bloom's Taxonomy

Videos - The Supreme Court, David Strathairn, PBS TV, Ambrose Video, vols.1-4. School media center or computer lab.

Rubistar link: <http://rubistar.4teachers.org/index.php>

All Purpose Writing Rubric – end of lesson

- **Primary Documents and websites:**

Cornell University Law School,

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0060_0393_ZS.html

Library of Congress Materials

Primary Document in American History:

The Dred Scott Case - LOC

<http://www.loc.gov/rr/program/bib/ourdocs/DredScott.html>

Library of Congress: Use the following steps to navigate the LOC links:

LOC Homepage Especially for teacher's link, classroom materials link, lesson plans link, By topic African American History link,

[Slavery in the United States: Primary Sources and the Historical Record](#) link

US Constitution – Library of Congress

<http://www.loc.gov/law/help/usconlaw/index.php>

Core Democratic Values and Constitutional Principles: -

McDougal-Littell core democratic link for teachers:

http://holtmcdougal.hmhco.com/hm/state/page.htm?state=MI&discipline=soc&resource=02&html=state_mi_ss_meap_home.html&menu=state_mi_ss_meap_menu.html

Procedures Day One:

Step 1) the instructor uses the LOC website Using Primary Sources – the students learn what are primary sources, how to analyze them, the importance of primary sources in historical investigation, and become familiar with the analysis worksheets.

<http://www.loc.gov/teachers/usingprimarysources/>

Step 2) the instructor displays the following essential questions and the students write them down.

- a) What is the issue(s) before the Court and what are the historical facts of the case?
- b) What was the decision of the Court? What was the rationale behind it?
- c) What was the impact on society? – explain.

Step 3) the instructor will ask the students if they are familiar with any current court cases? Teacher/students can list them and provide a brief outline of the case(s). Next, the instructor asks, “what makes this case controversial in your opinion”? The instructor can have the students write their responses in their notebook or use this for an oral class discussion. The instructor asks the students, “what core democratic values are at risk in these cases – and why?”

The students are next given access to a media center or they may use their government/civics textbooks to research the following: a) the 3/5ths Compromise; b) the Missouri Compromise; c) judicial review; d) popular sovereignty; e) Articles 1 and 3 of the US Constitution, f) the rule of law, g) core democratic values (CDV) of liberty, equality, life, pursuit of happiness, common good, popular sovereignty, private property, h) the Fugitive Slave Law of 1793 and 1850.

A list of core democratic values or fundamental beliefs and Constitutional Principles can be found at:

McDougall-Littell core democratic link for teachers:

http://holtmcdougal.hmhco.com/hm/state/page.htm?state=MI&discipline=soc&resource=02&html=state_mi_ss_meap_home.html&menu=state_mi_ss_meap_menu.html

or at <http://www.classroomhelp.com/lessons/cdv/>

Teacher will then lead a class discussion over these findings and clarify the facts.

Optional Strategy for Core Democratic Values: *Teacher may want to have the students draw circle with a happy face for each CDV. In the center of the ‘happy face circle’ (or a ginger bread type man) the student draws a “heart” and writes the definition of the CDV. The students then provide an example of the CDV – sentence form or as a picture. The students will write what other CDV(s) may be connected to the main/heart CDV – supporting values. On the outside of the circle/figure the learners write down the attacking philosophies, ideas, people, or historical events that are against the CDV.*

Note: This differentiated activity could be performed with small cooperative groups or individually.

Procedures Day Two:

Step 4) the instructor now begins the reviewing and analysis of the Court case – Dred Scott v. Sanford (1857). The teacher will need the use of the media center and its computers. The students will be assigned the following questions to investigate. (A backline master for the case analysis is found at the end of the lesson plan).

- a) State the issue(s) before the Court in this case. The issue(s) should be written in the form of a question(s).
- b) What are the facts presented to the Court? What is the historical background of the case? This will require the students to write several paragraphs. The students will record the chronology of the facts.
- c) What was the Court’s decision? – the actual vote of the justices.
- d) What was the rationale behind the majority decision? Or, why did the 7 justices choose to rule against Scott? This requires the students to research the rationale behind the decision. The students will write several paragraphs at this stage.

*****For an extra challenge have the students research the minority decision and the rationale behind it.**

- e) What was the effect of the decision on society? The students will now use critical thinking skills to evaluate the impact of Dred Scott v. Sanford on society, the American Civil War (War Between the States), the interpretation of the Constitution, and the powers of the US Supreme Court (such as judicial review, the appeals process, and the Supreme Court as the final court of appeal).

The instructor will supply the learners with the following links for researching the above answers. These links provide students with a variety of avenues to find the necessary information. Much of the information is repeated by all the

links. The teacher may want to assign pairs of students to complete this research in small groups.

Primary Documents – Cornell University Law School,
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0060_0393_ZS.html

Library of Congress Materials
Primary Document in American History:
The Dred Scott Case - LOC
<http://www.loc.gov/rr/program/bib/ourdocs/DredScott.html>

**** Note** Library of Congress: Use the following steps to navigate the LOC links: LOC Homepage Especially for teacher’s link, classroom materials link, lesson plans link, By topic African American History link, [Slavery in the United States: Primary Sources and the Historical Record](#) link

US Constitution – Library of Congress
<http://www.loc.gov/law/help/usconlaw/index.php>

Note: the learners may not finish researching the material in one class period. The instructor may assign the rest of the research as homework.

Procedures Day Three:

Step 5) the teacher will begin day three with a review questions (a) through (e)- (*actually these are the essential questions presented in the beginning of the lesson*). The teacher may collect the sheets and grade then according to the instructor’s classroom grading scale.

****The instructor now injects critical thinking questions and differentiating teaching strategies.**

Step 6) the students will now role play as Supreme Court Justices in 1857.

- 1) The class is divided up into groups of 9 students each (if possible). The students/group takes a vote – do they support Dred Scott’s appeal or not. They have just finished hearing the arguments in the Dred Scott case.
- 2) The teacher will have the students write their own opinion of the case based on the Constitution using one of the four constitutional interpretation methods explained below. The following evaluation questions may benefit the students in writing their brief:

What judgment would you make about...?

How would you prioritize the facts...?

What information would you use to support the view...?

What is your opinion of...?

What facts were used to make the conclusion...?

Note: The instructor will want to review the four common methods of constitutional interpretation before assigning this assessment (these methods are generally found in any government book – for instance *We the People* – pages 180 – 181).

- Textualism, literalism, or strict construction. This method involves looking at the meaning of words in the Constitution and giving each word, phrase, or clause its ordinary meaning. Proponents of this method feel that the Supreme Court stays neutral and does not impose their own values on the ruling.
- Original Intent or original history. This method is related to the method described above, but it addresses the question of how to interpret words, phrases, or clauses that are not clear. People who use this method seek to understand what the Founders meant when they wrote the words. Seeking and applying the original intent of the Founders helps to maintain ability and neutrality in the law.
- Fundamental principles. This method looks to principles – such as natural rights, republican government- to interpret the meaning of the Constitution. Supporters of this method argue that it is a useful way to determine the meaning of words, phrases, or clauses that may not be clear.
- Modernism or instrumentalism. This method starts from the premise that the Constitution should be interpreted and interpretation should adapt to changing circumstances and contemporary needs. This method does not hold back on social progress by adhering to outmoded understandings of the Constitution.

The students present their briefs to the class as a whole and the instructor leads a discussion. A scoring rubric may be found at the end of the lesson.

Note: Step 6 may not be finished in three class periods. The instructor may want to extend this lesson to a fourth day.

Step 7- Optional Assignment and Assessment) Student will role play as a newspaper reporter writing in response to the Court's decision.

The student will read Frederick Douglas's speech given in response to the Dred Scott decision and a letter written in support of Tanney's ruling against Dred Scott.

The student will a) take position for or against the ruling, b) support the decision with references from 3 different primary sources – Constitution, Declaration of Independence, laws passed by Congress (fugitive slave laws, etc), c) use 3 to 4 core democratic values, d) will include at least 4 period pictures in the paper, and e) write a closing statement, f) article must be constructed in newspaper format.

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Teacher uses these additional resources:

<!-- The following URL will result in display of this document -->
<!-- [http://lcweb2.loc.gov/cgi-bin/query/r?ammem/mcc:@field\(DOCID+@lit\(mcc/070\)\)](http://lcweb2.loc.gov/cgi-bin/query/r?ammem/mcc:@field(DOCID+@lit(mcc/070)))
Letter supporting Tanney

<http://mikio.hubpages.com/hub/The-Dred-Scott-Case-Analyzed-by-Frederick-Douglas>
Frederick Douglas opinion on Dred Scott case after the Civil War

<http://teachingamericanhistory.org/library/index.asp?document=772>
Douglas full speech on Dred Scott

Lesson Evaluation Materials:

LOC Standard Assessment: Assess student participation in discussions and other classroom activities as well as products resulting from culminating activities according to criteria that you specify or develop in discussion with the class.

And

All-Purpose Writing Rubric (Scoring Guide)

| Addressing | Excellent | Good | Satisfactory | Unsatisfactory |
|---|-----------|------|--------------|----------------|
| <u>The Task</u>
Showing a clear and consistent understanding of what the directions are asking you to do. | | | | |
| <u>Development</u>
Showing a clear main ideas and supportive information. | | | | |
| <u>Organization</u>
Showing a strong structure, with introduction, well-developed paragraphs, | | | | |

| | | | | |
|--|--|--|--|--|
| conclusion, and transitions.
Visual features of text assist the reader. | | | | |
| Language
Showing understanding of and flexibility with the special language of the subject using proper academic diction | | | | |

{Backline Master for the Court Case}

Supreme Court Case of Dred Scott v. Sanford (1857)

Elements of the Case

Directions: Fill in the appropriate information for each of the following elements of this case. Students are required to use Standard English guidelines and rules in answering all questions.

1. State the issue(s) before the US Supreme Court in this case.

2. What facts of the case were presented to the US Supreme Court?
(This will require writing several paragraphs)

5. What was the effect of the decision?

Evaluation of the Case

Directions: Use your own judgment and knowledge to evaluate the justices' decision and state your opinion of that decision.

6. If you were a Supreme Court justice, what would your decision have been in this case? Explain.
