HANDOUT TWO: **THE SUPREME COURT AND ENSLAVED PEOPLE**

Directions: Students will read excerpts from:

- **Walter Johnson's Soul by Soul: Life Inside the Antebellum Slave Market[27]**
- **The Supreme Court decision in Dred Scott v Sanford that legally declared enslaved people were not citizens in the United States, but rather had the same status as owned property.**

After reading these excerpts, discuss as a large group for clarity and understanding.

EXCERPT FROM CHAPTER ONE

The Chattel Principle, pp 19-22:

The character of the violence also changed as gruesome public spectacle lynchings became much more common. At these often festive community gatherings, large crowds of whites watched and participated in the black victims' prolonged torture, mutilation, dismemberment, and burning at the stake. Such brutally violent methods of execution had almost never been applied to whites in America. Indeed, public spectacle lynchings drew from and perpetuated the belief that Africans were subhuman—a myth that had been used to justify centuries of enslavement, and now fueled and purportedly justified terrorism aimed at newly emancipated African American communities. . . .

Living Property

From an early age slaves' bodies were shaped to their slavery. Their growth was tracked against their value; outside the market as well as inside it, they were taught to see themselves as commodities. When he was ten, Peter Bruner heard his master refuse an offer of eight hundred dollars (he remembered the amount years later), saying, "that I was just growing into money, that I would soon be worth a thousand dollars." Before he reached adulthood John Brown had learned that the size of his feet indicated to a slaveholder that he "would be strong and stout some day," but that his worn-down appearance - bones sticking "up almost through my skin" and hair "burnt to a brown red from exposure to the sun" - nevertheless made it unlikely that he would "fetch a price." Likewise, but the time she was fourteen, Elizabeth Keckley had repeatedly been told that even though she had grown "strong and healthy," and "notwithstanding that I knit socks and attended to various kinds of work ... that I would never by worth my salt." Years later the pungency of the memory of those words seemed to surprise Keckley herself. "It may seem strange that I should place such emphasis upon words thoughtlessly, idly spoken," she wrote in her autobiography. Condensed in the memory of a phrase turned about her adolescent body, Elizabeth Keckley re-encountered the commodification of her childhood.

...

The process by which a child was made into a slave was often quite brutal. As an adolescent, Henry [Clay Bruce] was adjudged "right awkward" and beaten by his mistress, who thought his arms too long and hands too aimless for work in her dining room. Ten-year-old Moses Grandy was flogged "naked with a severe whip" because he "could not learn his [master's] way of hilling corn." Thirteen-year-old Celestine was beaten until her back was marked and her clothes stained with blood because she could not find her way around the kitchen. Twelve-year-old Monday was whipped by his mistress because his lupus made his nose run on the dinner napkins. Just as the bodies of slaveholding children were bent to the carefully choreographed performances of the master class - in their table manners, posture and carriage, gender-appropriate deportment, and so on - motion by disciplined motion, the bodies of slave children were forcibly shaped to their slavery.

...

Just as the chattel principle was worked into the bodies of enslaved people, it was also present in their families and communities... The threat of sale, Thomas Johnson later remembered, infused his friendships with fear. Johnson remembered that the trade was present in his most intimate relations from the time he was very young: "my dear parents ... talked about our coming misery, and they lifted up their voices and wept aloud as they

27 Johnson, Walter, Soul By Soul: Life Inside the Antebellum Slave Market. Harvard University Press, Cambridge, MA. 1999.

spoke of us being torn from them and sold off to the dreaded slave trader." The account Jones made of his later attachments was similarly interpolated with the dread of sale: "I had a constant dread that Mrs. Moore would be in want of money and sell my dear wife. We constantly dreaded a final separation. Our affection for each other was very strong and this made us always apprehensive of a cruel parting. Likewise Lewis Hayden: "Intelligent colored people of my circle of acquaintance as a general thing felt no security whatever for their family ties." Some, it is true, who belonged to rich families felt some security; but those of us who looked deeper and knew how many were not rich that seemed so, and saw how fast the money slipped away, were always miserable. The trader was all around, the slave pens at hand, and we did not know what time any of us might be in it." Under the chattel principle, every advance into enslaved society - every reliance on one another, every child, friend, or lover, every social relation - held within it the threat of its own dissolution.

SUPREME COURT CASE: *DRED SCOTT v JOHN F.A. SANFORD*[28]

Facts of the case

Dred Scott was an enslaved man in Missouri. From 1833 to 1843, he resided in Illinois (a free state) and in the Louisiana Territory, where slavery was forbidden by the Missouri Compromise of 1820. After returning to Missouri, Scott filed suit in Missouri court for his freedom, claiming that his residence in free territory made him a free man. After losing, Scott brought a new suit in federal court. Scott's master maintained that no "negro" or descendant of enslaved people could be a citizen in the sense of Article III of the Constitution.

Question

Was Dred Scott free or an enslaved person?

Conclusion

- 7-2 Decision for Sanford
- Majority Opinion By Roger B. Taney
- Held portions of the Missouri Compromise unconstitutional in violation of the Fifth Amendment, treating Scott as property, not as a person.

Excerpt From Chief Justice Taney's Decision:

Original text available at the Library of Congress: https://www.loc.gov/resource/llst.020/?sp=1&st=text

"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, guarantied 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.
"It will be observed, that the plea applies to that class of persons only whose ancestors were negroes of the African race, and imported into this country, and sold and held as slaves. The only matter in issue before the court, therefore, is, whether the descendants of such slaves, when they shall be emancipated, or who are born of parents who had become free before their birth, are citizens of a State, in the sense in which the word citizen is used in the Constitution of the United States. And this being the only matter in dispute on the pleadings, the court must be understood as speaking in this opinion of that class only, that is, of those persons who are the descendants of Africans who were imported into this country, and sold as slaves.
...
"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.

28 Excerpted from: https://www.oyez.org/cases/1850-1900/60us3