

Dred Scott Reading Guide Questions

Taney argues that blacks obviously could not have been citizens because southerners would be obligated to give them the same rights in their state constitutions as they gave to white citizens. What rights would these be?

It obviously varies based on the state, but Taney points out, in the second to last paragraph of his opinion in the excerpt, some rights commonly found in state constitutions: speech, assembly, and the right to “to keep and carry arms wherever they went.” Under the Constitution’s –clause demanding states treat citizens from other states with respect (Article IV, Section 2), citizens of a state traveling in another state must receive the core “privileges and immunities” that state gives to its own citizens.

Curtis and Lincoln both argue that even under the strictest definition of citizenship – voting – blacks were clearly citizens in five states of the Union. Which states were these? Does anything jump out at you from the list of states where blacks exercised suffrage?

It includes not only then slaveholding northern states like New Jersey, but North Carolina, whereas Taney insisted no southern state would be foolish enough to allow the possibility of black citizenship.

The dissenting opinions note that women prove that one can be a citizen without voting. How so?

Women did not have the right to vote in most states, and yet no one holds that women are not citizens of the United States. In other words, even were Taney right about there being no black suffrage, that itself would be insufficient to prove the impossibility of black citizenship – blacks could still be second-class citizens, yes, but citizens nonetheless.

Both sides interpret the Declaration of Independence differently. What evidence from its text does Roger Taney offer for his interpretation that the Declaration of Independence obviously meant to exclude blacks?

See the bottom of page 3; Taney concedes the text, on its plain reading, “would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute that the enslaved African race were not intended to be included”

What evidence from its text do Curtis and Lincoln use?

Each points to the universal language, with Lincoln directly quoting Taney on that point

Which has a better case?

For all their disagreements, both sides on this agree on the role of a judge: to interpret and enforce the law as written and understood at the time it was passed, rather than decide upon whether a law is just or a policy is sensible. Both Taney and the dissenting justices implicitly accuse the other of making a decision on what they wish the Declaration and Constitution had said, rather than what it does demand. Where do you see these critiques?

Taney, sixth paragraph, Curtis, last paragraph.

Is it accurate in any of these cases?