



Determining the Facts

Reading 2: The Dred Scott Trial

This play was adapted from the trial transcripts of the Dred Scott case by Jefferson National Expansion Memorial staff members. Have the students choose roles or assign them. If there are more students than roles, ask the extra students to act as alternate jurors. After they have finished role-playing the litigation, the student jurors should reach a verdict based on the hearing and announce it to the class. Then have students complete Reading 3 and answer the appropriate questions.

How to Use This Reading

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Cast

Dred Scott, *Plaintiff*
Narrator
Irene Emerson, *Defendant*
Taylor Blow
Judge Alexander Hamilton
Bailiff
Court Clerk
David Hall, *Plaintiff's Lawyer # 1*
Hugh Garland, *Defense Lawyer #1*
Alexander Field, *Plaintiff's Lawyer #2*
Lyman Norris, *Defense Lawyer #2*
Miles H. Clark, *Witness*
12 Jurors (including Foreperson)

Scene One

Dred Scott, Narrator, Irene Emerson, and Taylor Blow are standing in front. Everyone else is seated in audience.

NARRATOR: The trial we are about to reenact is true. Dred Scott and his family tried to win their freedom from slavery in St. Louis's Old Courthouse. The people who were part of the case will tell us what happened.

DRED SCOTT: I am Dred Scott. I'm almost 50 years old now and have been a slave all my life. My first owners, the Blow family, took me from Virginia to St. Louis. They treated me well, but had to sell me to Dr. Emerson, who was in the Army. I worked odd jobs for the Emersons, and was also hired out to work for other people. They kept all the money for themselves. John Emerson took me across the river to Illinois, and from there way up to Fort Snelling in Wisconsin Territory. I don't think there is supposed to be any slavery in those places, but he kept me as a slave. When I heard that I might be able to become free, I started this case. Taylor Blow and other people have helped me. I'm an old man now, and I can't read or write. I'd like for my wife Harriet and daughters Lizzie and Eliza, to have a

better life than I've had. (*Sits down.*)

TAYLOR BLOW: My name is Taylor Blow, and my family used to own Dred Scott. My family is originally from Virginia. After our tobacco crops failed, we moved to St. Louis. Once we got to St. Louis, my father decided he would have to sell Dred because we needed the money. He sold Dred to Dr. Emerson, an Army Doctor. Over the years, I have not seen much of Dred, and now I want to help him become a free man. (*Sits down.*)

IRENE EMERSON: My name is Irene Emerson. My late husband John owned Dred Scott. He was our servant. Sometimes we hired Dred out to work for other people and he made money for us. John was a doctor in the United States Army, and was sent to Illinois and Wisconsin Territory and took Dred with him. Now that John has died, Dred is suing for his freedom. That doesn't seem fair, Dred has always belonged to us, and we've treated him well. Look at the thanks we get! (*Sits down.*)

NARRATOR: All is now ready for the trial to begin. Although nobody knew it at the time, the Dred Scott Case would later become one of the most famous trials in United States history. Let's see what happened. (*Sits down.*)

Scene Two

Everyone except the Judge is in their places in the courtroom. The Judge stands at door of room.

BAILIFF (*Stands and speaks loudly*): All rise. (*Waits for everybody to stand.*) The Circuit Court of St. Louis County is now in session. The honorable Judge Alexander Hamilton presiding.
(*The Judge enters and takes a seat.*)

JUDGE: You may be seated. (*Everyone sits.*) The clerk will call the first case.

CLERK: The case of Dred Scott versus Irene Emerson, Your Honor.

JUDGE: Are the lawyers in this case ready?

ALL LAWYERS: We are, Your Honor.

JUDGE: The clerk will swear in the jury.

CLERK (*standing*): The members of the jury will rise, and raise their right hands. (*Waits for them to do so.*) Do you swear as citizens of St. Louis County that your decision will be based entirely on what you hear in this courtroom today?

JURORS (*together*): I do.

CLERK: You maybe seated. (*JURORS and CLERK sit down.*)

JUDGE: Do the lawyers for the plaintiff, Dred Scott, have an opening statement?

DAVID HALL: Yes, Your Honor. (*Moves to stand in front of jury.*) Members of the jury, this is an easy case to decide. Dred Scott has been a slave all of his life. His master, Dr. John Emerson, took him to Fort Armstrong in the state of Illinois and kept him as a slave. As all of you know, the laws of Illinois do not allow slavery. Later, Emerson took Dred Scott to Fort Snelling in Wisconsin Territory and, according to the Missouri Compromise, slavery is not allowed there. Even after Emerson left Fort Snelling, he kept Dred Scott as a slave, hiring him out to others in Wisconsin Territory and back in St. Louis. Members of the jury, we say that Dred Scott became a free man when taken to Illinois and Wisconsin Territory. Just because he was brought back to the state of Missouri, where slavery is allowed does **not** make him a slave again. The laws of Illinois, the nation, and even cases just like this one heard before in Missouri, all say that Dred Scott should be free. Not only Dred himself but his wife, Harriet, and young daughters, Lizzie and Eliza, depend on your decision. (*Sits.*)

HUGH GARLAND (*moving to stand in front of jury*): Members of the jury, it is true that slavery is not allowed in Illinois or Wisconsin Territory. But Dr. Emerson was ordered to go there by the United States Army. Dred Scott was Dr. Emerson's property, and Emerson wanted to take him along. The laws of the United States Army, not those of Illinois or Wisconsin Territory, should be followed in this case. Dred Scott came back to Missouri, where slavery is allowed. Why should we let the laws of other places change things here in Missouri? When you think of these things, I am sure that you will decide that Dred Scott is a slave. Thank you. (*Sits.*)

JUDGE: Do the lawyers for the plaintiff have any witnesses in this case?

ALEXANDER FIELD: Yes, Your Honor. We call Captain Miles H. Clark.

BAILIFF: Captain Miles H. Clark to the stand. (*CLARK moves to the witness stand and remains standing.*)

CLERK (*stands; to CLARK*): Raise your right hand. Do you swear that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

MILES H. CLARK: I do.

CLERK: You maybe seated. (*Both CLARK and the CLERK sit*)

FIELD (*to CLARK from in front of jury*): What is your name?

CLARK: Miles H. Clark.

FIELD: Captain Clark, do you know Dred Scott?

CLARK: Yes. When I lived at Fort Armstrong, Dred Scott was Dr. Emerson's slave.

FIELD: Why were you at Fort Armstrong?

CLARK: I was a Captain in the army. John Emerson was the surgeon at that post.

FIELD: Is slavery legal in Illinois?

CLARK: No.

FIELD: Yet you are saying that Emerson kept Dred Scott in slavery there?

CLARK: Yes, he did.

FIELD: Thank you. I have no further questions. (*Sits.*)

JUDGE: Does the defense wish to cross-examine this witness?

LYMAN NORRIS (*To CLARK from in front of jury*): Yes, Your Honor. Captain Clark, what was Dr. Emerson doing at Fort Armstrong?

CLARK: As I said before, he was a surgeon in the army there.

NORRIS: Captain Clark, as a soldier yourself, would you say that military men have much choice where they serve in the army?

CLARK: No. We go where they send us.

NORRIS: And what do you bring with you when the army sends you to a new place?

CLARK: Well, I bring my clothes and all my belongings with me when I move.

NORRIS: And would you say that slaves are property too?

CLARK: Yes, in many states slaves are people considered to be property.

NORRIS: Thank you. I have no more questions. (*Sits.*)

JUDGE: The witness may be seated. (*CLARK returns to his seat.*) Do the lawyers have any more witnesses?

DAVID HALL: No. We rest our case.

JUDGE: Then the defense may begin its case.

HUGH GARLAND (*stands*): Your Honor, we believe that the lawyers for the plaintiff, Dred Scott, have not made a case strong enough to prove he should become a free man. We will present no witnesses.

JUDGE: So the defense rests?

GARLAND: Yes. The argument in this case is not about what happened, we agree on that. What we don't agree on is whether or not the plaintiff should be a free man because he lived in free territory. (*Sits.*)

JUDGE: Very well. Are there any closing arguments?

ALEXANDER FIELD (*stands*): Yes, Your Honor. (*Crosses to address jury.*) As we have shown, slavery is not allowed in the State of Illinois or the Territory of Wisconsin. And yet, Dr. Emerson broke the law of these places by keeping Dred Scott as a slave, either working for him, or hiring him out to other people. Therefore Dred Scott really became a free man when Dr. Emerson took him to those places. In the past there have been other cases just like this one in the State of Missouri. And in those cases the court decided that a slave taken by his master into a free area becomes a free man, even if they move back to Missouri. Therefore, Members of the Jury, this is an easy decision for you. You should find the defendant, Mrs. Emerson, guilty of wrongly holding Dred Scott as a slave, and give Dred and his family their freedom. Thank you. (*Sits.*)

LYMAN NORRIS: Members of the jury, Mr. Field and Mr. Hall are wrong. Dr. Emerson was the husband of my client, the widow Mrs. Emerson. He served his country in the United States Army, and had no choice where he went. Why should someone in the Army suffer by not being able to bring his property with him when he serves his country? Let's pretend that it's against the law to have horses in Illinois or in the Wisconsin Territory. If what the lawyers for the plaintiff say is true, then you could not take your horse there, and if you did, the horse could be taken away from you when you came back to Missouri! That is why I am sure you will decide that Mrs. Emerson is not guilty, and that Dred Scott should remain a slave. Thank you. (*Sits.*)

JUDGE: Members of the jury, in deciding this case, you must keep the following points of law in mind:

(1) Slavery is not allowed in the State of Illinois because of its constitution, and not allowed in Wisconsin Territory because of the federal laws which make up the Missouri Compromise;

(2) Slavery is allowed in the state of Missouri because of its constitution and

laws;

- (3) Hiring out a slave to someone else, and keeping the money yourself, is the same under the law as having your slave work for you;
- (4) If you believe that Dred Scott was wrongly held as a slave in either Illinois or Wisconsin Territory, that is evidence that you should find the defendant, Emerson, guilty, and award Dred Scott his freedom.

Members of the jury, you must reach a verdict based only upon what you have heard in court today. It is your duty to retire and select a foreperson, and consider your verdict. Bailiff, take the jury outside to make that decision.

(BAILIFF leads the JURORS outside, then waits just inside the door of the courtroom. When the jury has reached a verdict, BAILIFF leads the jurors back to their seats.)

JUDGE: Has the jury reached a verdict?

FOREPERSON: We, the jury, find the defendant, Mrs. Irene Emerson, GUilty (guilty or not guilty) of unlawfully holding the plaintiff, Dred Scott, a slave.

JUDGE: *(if verdict is guilty):* The jury has found the defendant guilty. It is therefore ordered that Dred Scott and his family be awarded their freedom. This court is adjourned. *(Bangs gavel.)*

JUDGE: *(if verdict is not guilty):* The jury has found the defendant not guilty. It is therefore ordered that Dred Scott and his family be kept as slaves. This court is adjourned. *(Bangs gavel.)*

Continue

Comments or Questions

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