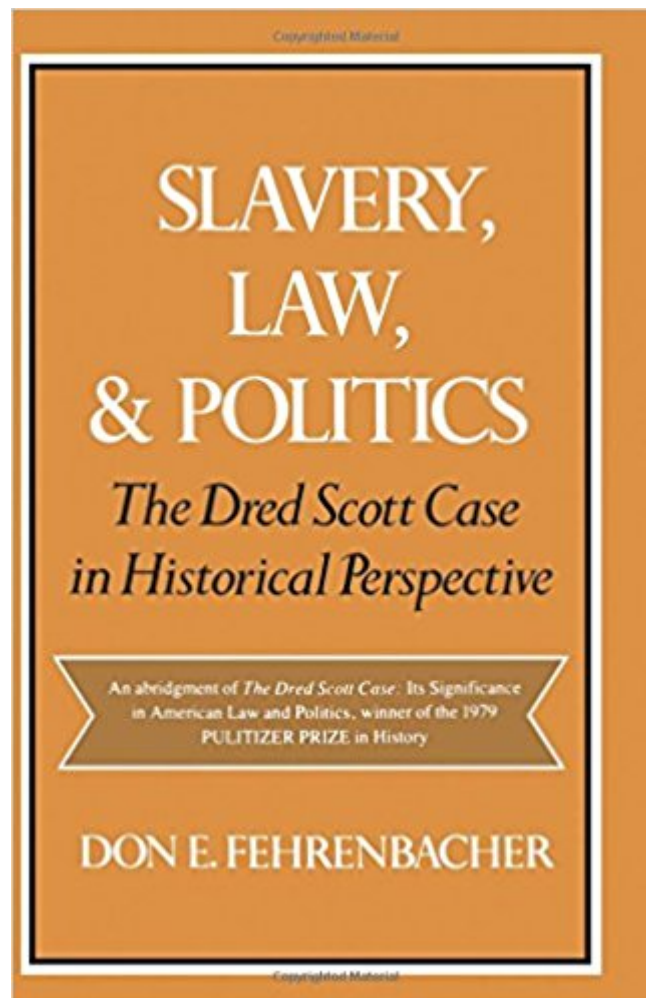




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Slavery, Law, And Politics: The Dred Scott Case In Historical Perspective (Galaxy Books)



Synopsis

This is an abridgement of the Pulitzer-Prize winning *The Dred Scott Case*, making Fehrenbacher's monumental work available to a wider audience. Although it condenses the original by half, all the chapters and major themes of the larger work have been retained, providing a masterful review of the issues before America on the eve of the Civil War.

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Customer Reviews

"This magisterial study is a triumph of scholarship....Must reading for anyone interested in American legal history or the Civil War."--*Virginia Quarterly Review*

This abridgment makes Fehrenbacher's monumental work available to a wider audience. The text has been reduced to about half its original size, and documentation is omitted. This abridgment nevertheless covers all the major themes of the original work.

The writing is academic but the story told by Fehrenbacher fulfilled my wish to more about the Dred Scott decision. If you are interested in the detail you will get your fill. I enjoyed it.

This volume is an abridgment for non-historians and students of Fehrenbacher's 1978 Pulitzer Prize-winning study, *"The Dred Scott Case: Its Significance in American Law and Politics"*. It covers

the same ground as the original, omitting half the text and the lengthy, annotated footnotes. The Dred Scott decision (1857) ranks high among the critical events leading up the Civil War but until Fehrenbacher, it had not been put in the full legal and political context it deserves. In Dred Scott the Supreme Court for the first time struck down a major federal law. Yet the case had modest beginnings. Scott, a Missouri slave who had lived with his master for several years in Illinois and the Minnesota Territory, initiated a petition for freedom in 1846 on the grounds that his residence on free soil emancipated him. This was a fairly common suit in Missouri and usually ended in freedom. But when postponed by technicalities and appeals, it got caught up in the hardening sectional attitudes of the 1850s toward slavery in the West and the verdict turned against Scott. The issue of slavery in the territories had long been a part of American politics. The Missouri Compromise of 1820 had offered what seemed like a permanent solution by prohibiting western slavery north of 36° 30' while leaving the rest undecided. But the question was reopened during the Mexican war when the Wilmot Proviso threatened to outlaw slavery south of the line as well. When the Kansas-Nebraska Act of 1854 repealed the Missouri Compromise and permitted all territories to have slavery if they wanted it, northerners feared the institution would spread to free northern lands. The more Congress fumbled with the question, the more people began to desire a judicial solution that might be more permanent. Thus it was no surprise that when Dred Scott finally reached the Supreme Court, Chief Justice Taney used the occasion to make a broad statement on the slavery question that went far beyond the narrow boundaries of the case. Taking a partisan, pro-slavery position that was backed by the court's southern majority, Taney declared that Negroes were not citizens and had no right to sue for freedom in federal courts. The Missouri Compromise, he said, was unconstitutional because it deprived slaveholders of the right to take their property into all federal territories. Needless to say, instead of solving the slavery question, this decision merely aggravated the problem. Its effect, though, was short-lived since the Twelfth, Fourteenth, and Fifteenth Amendments to the Constitution virtually nullified Dred Scott. Throughout this rather complex narrative, Fehrenbacher remains both lucid and eloquent. He never loses sight of his main objectives despite the meticulous research that even this abridged version reveals. Only when discussing Taney himself, whom Fehrenbacher depicts as an abolitionist-hating southern extremist, does his evenhanded approach break down. This obvious bias aside, Fehrenbacher builds his argument with great care from the legal antecedents of the early republic through the case's rather small impact on post-Civil War law. In the final analysis, Taney's decision displayed an "extraordinary cumulation of error, inconsistency, and misrepresentation, dispensed with...pontifical self-assurance." Taney was the radical innovator; by contrast, the two dissenting northern judges

followed established precedents in upholding the Missouri Compromise and declaring Scott free. Many of the murky questions associated with Dred Scott have been cleared up by this book. It is unfortunate that Fehrenbacher could not find enough evidence to discover the motives of those involved in it, although he does refute the long-held notion that Dred Scott was deliberately contrived by abolitionists as a test case. In all, this is an important, absorbing work. Like in many legal studies, law is placed thoroughly within the political and social framework of the period. Indeed, the case itself occupies less than half the text. While scholars may regret the lack of documentation beyond a brief bibliography and students may encounter trouble because of the failure to define many important legal terms, this shorter edition of Fehrenbacher's work should appeal to a broad readership.

Scholarly, more for advanced constitutional law or political science types. Dred Scott doesn't say two words and is described not much more than being "small, pleasant-looking." Precedent arguments to include the Declaration of Independence, the Constitution . . . going all the way back to the Magna Carta. Dred Scott loses, but this case becomes more about the "power of congress to prohibit slavery in the territories." It gets very complicated, leaving the overall impression that this was an historic low point for the Supreme Court. "It may fairly be said that Chief Justice Taney elected Abraham Lincoln to the Presidency." - Charles Warren, Supreme Court historian I enjoyed the evolution of the Supreme Court which now is considered by some the only legislative body: "Beyond comparison the weakest of the three departments of power." - Alexander Hamilton. ~~~~~ Articles of Confederation "Thirteen separate, sovereign, independent States which had entered into a league or confederation for their mutual protection and advantage." "Unless the master becomes an inhabitant of that State, the slaves he takes there do not acquire their freedom." Explanations explanatory of explanations explained." - Lincoln ~~~~~ This book tells me that pre-MLK black history has been overly neglected in textbooks. After the American Revolution and the Civil War, I'd put "Brown vs the Board of Education" and next the Dred Scott Decision.

Superb, well focused and authoritatively documented. A good text for senior high school and college students, even beneficial for Constitutional Law ancillary reading in law school.

'Slavery, Law and Politics' is an abridged version of Don Fehrenbacher's 1978 magnum opus 'The Dred Scott Case: Its Significance in American Law and Politics.' While it is a technically challenging

book for the average reader of historical jurisprudence, its an indispensable resource for understanding the dynamics of the Supreme Court's decision in the Dred Scott case given the historical milieu just before the Civil War. Fehrenbacher pulls no punches, ripping into the Taney court which issued one of the most shameful decisions in the Court's history. Of interest is the 'scorecard' Fehrenbacher keeps of the different aspects of the decision, clarifying the historical ambiguities of what the court really decided. In all, a complex, gratifying read. The original, fully annotated version of the book, unfortunately, is out of print..

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