DAYS OF INFAMY

HOW A CENTURY OF BIGOTRY LED TO JAPANESE AMERICAN INTERNMENT

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This book includes quoted material from primary source documents, some of which contains racially offensive language. These passages are presented in their original, unedited form in order to accurately reflect history.

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CHAPTER 1

FREE AND WHITE

THE UNITED STATES CONSTITUTION makes no mention of citizenship. Excluding enslaved people and "Indians not paying taxes"—who were assumed to be not only citizens of their various nations, but also less than whole people—anyone living in the United States when the Constitution was ratified seemed to qualify as a citizen. The only distinction was that to be elected president, a person needed to be born on American soil. (There has been some speculation that this clause was inserted specifically to keep Alexander Hamilton, who was born in Nevis in the West Indies, from the presidency.) Requirements to attain citizenship were also not discussed, but Congress was empowered to "establish a uniform rule of naturalization."

Citizenship did not mean voting. In every state, in order to qualify to vote, a person—almost always a man—needed to be twenty-one years old and either own property or pay taxes. (In New Jersey, where a technicality allowed women with property

to vote, an amendment to the state constitution soon closed that loophole.) In fact, the language of both the Constitution and its first ten amendments did not explain what would later be termed "privileges and immunities" of citizenship at all. All the rights enumerated were in terms of "people," which made no distinction between citizens and noncitizens.

While the First Congress made no effort to clear up this vague concept of citizenship, it did take up how those who did not live in the United States at its founding could become "naturalized" American citizens. As John Lawrence of New York observed in the debates over naturalization in February 1790, "The reason of admitting foreigners to the rights of citizenship among us is the encouragement of emigration, as we have a large tract of country to people."

And that "large tract," mostly in the West, would need a significant influx for both the nation's economic growth and self-defense. Yet there was also general agreement that the country did not want just anybody. When discussing a residency requirement, James Madison warned, "When we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses; it is no doubt very desirable, that we should hold out as many inducements as possible, for the worthy part of mankind to come and settle amongst us, and throw their fortunes into a common lot with ours . . . I should be exceeding sorry, sir, that our rule of naturalization excluded

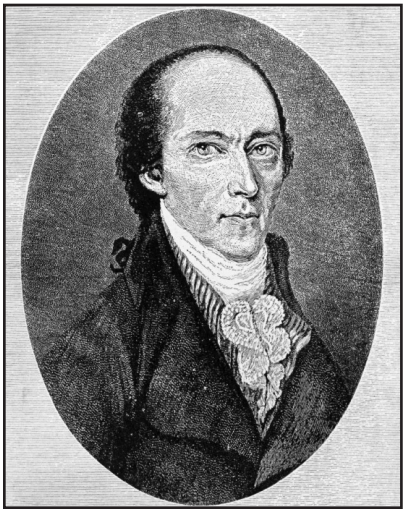
a single person of good fame, that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but who, in fact, is a real addition to the wealth or strength of the United States."

In the end, Madison's hesitation worked itself into the final bill. On March 26, 1790, President George Washington signed "an act to establish a uniform Rule of Naturalization" into law. It stipulated:

> That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof . . . in any one of the states wherein he shall have resided for the term of one year at least . . . that he is a person of good character, and taking the oath or affirmation prescribed by law, to support the constitution of the United States.

In addition to limiting naturalization to free whites, although just what would determine race was left unspecified, the use of "he" was not an accident. In practice, few women could become naturalized citizens, except by application with her husband, or sometimes her son. As with most matters, naturalization was left to the states to decide who qualified for United States citizenship under the law.

Although almost every member of Congress, as well as



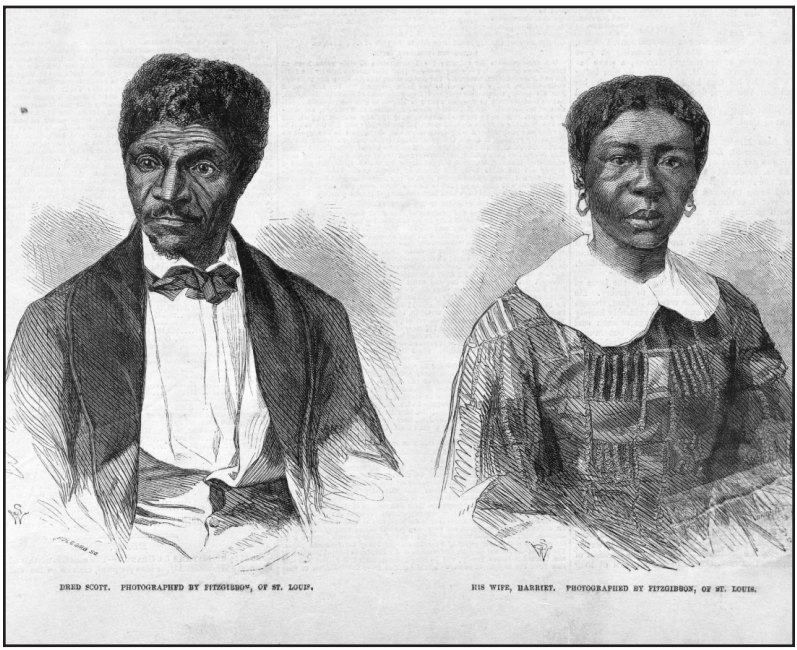
Senator William Maclay.

President Washington, favored the limitation of "whites of good character," there were dissenting voices. Senator William Maclay of Pennsylvania wrote in his diary, "The truth of the matter is that it is a Vile bill, illiberal. Void of philanthropy and needed mending much. We Pennsylvanians act as if we believed that God made of one blood all families of the Earth."

Maclay left Congress in disgust after one term, no mending of the 1790 law to be had. In the end, the only part of the legislation that caused widespread controversy was the residency requirement, which was directly related to the understanding that over time it would become easier (for men) to vote, with the property-holding prerequisite likely to eventually disappear. Residency was raised from two years to five in 1795, and then, in 1798, with Thomas Jefferson's populists threatening to displace John Adams's more stodgy Federalists, to fourteen years. (It wouldn't help Adams, who would lose to Jefferson in 1800, not because landless whites were counted for electoral votes, but because three-fifths of the slaves were.) In 1802, with Jefferson

in the President's House—it wasn't officially called the White House until 1901—the requirement was again put at five years, where it remains today.

Citizenship did not become a matter for the courts until the 1850s, and then only as an aside. The case began in 1836, when a United States Army major, Lawrence Taliaferro, performed a wedding ceremony. The groom was about forty, and the bride about ten years younger. Both were simply dressed. What made this ceremony unusual, however, was that the groom, Dred Scott, and the bride, Harriet Robinson, were both Black and, depending on whom one asked, either former or current slaves.



Dred Scott and his wife, Harriet Robinson Scott.