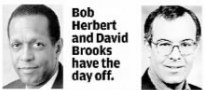


PAGE: B07PDI0206

M | TUESDAY | MARCH 6, 2007 | ST. LOUIS POST-DISPATCH | STLOUIDAY.COM | B7+

OTHER VIEWS



Bob Herbert and David Brooks have the day off.

MORE LETTERS ONLINE "I am in disbelief about the travesty to the democratic process..."

Monday - Josh Goldberg, Mary Sanchez Tuesday - David Brooks, Bob Herbert Wednesday - Paul Krugman, David Ignatius Thursday - Warren Packer Saturday - Helen Goodfear Sunday - Charles Krauthammer, Leonard Pitts

THE DRED SCOTT CASE

After 150 years, do we know why the Scotts lost?

By Arlene Zaremka

Under long-established court decisions regarding slavery, Dred and Harriet Scott should have won their suit for freedom because they had lived in free territory. So why did they lose?

The slave rebellions and the growing abolition movement of the 1820s and 1830s terrified slaveowners. In response, they broadened their ideological justifications for slavery, consisting of a combination of violent racism and attacks on congressional power to prohibit slavery in U.S. territories.

They became emancipated. "Times are not now as they were when the former decisions on this subject were made," the court declared. "Since then not only individuals but States have been possessed with a dark and fell spirit in relation to slavery..."

The decision ended with a ringing defense of slavery: "As to the consequences of slavery, they are much more harmful to the matter than the slave... When the condition of our slaves is contrasted with the state of their miserable race in Africa, when their civilization, intelligence and instruction in religious truths are considered..."



Arlene Zaremka

whether slave or free, could become citizens of the United States — even. He claimed that citizenship was fixed when the Constitution was written in 1787 and that blacks were outside the pale. "Supposed I had for more than a century before been regarded as beings of an inferior order," Taney wrote, "belonging to a different race..."

to respect and that the negro might justly and lawfully be reduced to slavery for his benefit... This opinion was at that time fixed and universal in the civilized portion of the white race...

This was factually false. Although few in numbers, free African-Americans often were considered citizens in 1787 and even were eligible to vote under some of the early state constitutions.

The specter of free black citizens having equal rights with whites haunted the court. This would, Taney wrote, "... give to every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction..."

citizens might speak to hold public meetings upon political affairs, and to keep and carry arms wherever they went. "Had all of this would be done in the face of the subject race of the same color, both free and slave, inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State."

Justice Taney went on to rule that Congress could not outlaw slavery in virtually all U.S. territories. Why? Because to do so would deprive slaveholders of their property — that is, their slaves — without due process of law.

Dred and Harriet Scott had lost, and so had every other black person, whether slave or free.

St. Louis lawyer Arlene Zaremka, a long-time activist in the area of social justice, is co-author with Melissa C. Klotz of "The Executive Justice: Citizenship and the Constitution," New York: Rowman, 2005. One chapter of the book is devoted to the Dred Scott case. Copyright, 2005, Arlene Zaremka

THOMAS F. EAGLETON, 1929-2007

Wisdom, prescience and plain-speaking from Tom Eagleton's columns

Editor's note: Following are excerpts from U.S. Sen. Thomas F. Eagleton's columns. He wrote regularly for the Post-Dispatch.

From "Ethics on holiday," Dec. 22, 1987

The Reagan administration had another off week with respect to ethics. When you add all of the convicted, indicted, re-signed, fired or otherwise disposed of officials, the Reagan administration ranks as the Babes Bath of the Szeize Hall of Fame.

But maybe things will be better in the New Year... Maybe, in addition to being sorry for the culprit, Reagan will be sorry about the continuing climate of ethical violations. Maybe Reagan will seek new legislation to plug the loopholes in the ethics laws that should, in a realistic fashion, prohibit outgoing senior federal employees from both the executive and legislative branches from selling their ability to manipulate the very government they had just departed...

From "A fractured community" Jan. 31, 1995

I am not arguing that solving the governmental barriers of the St. Louis region will solve a spontaneous reproduction of a new and greater St. Louis with...

unfettered decency and personal responsibility regarding spouses. Eliminating the Berlin Wall has not yet equalized East and West. Eliminating Skinner Boulevard as our own Berlin Wall between poverty and prosperity will not by itself insure an instantaneous panacea.

From "Campaign finance means Clinton's record," May 26, 1998

The bagman for the transfer of the Chinese funds was Johnny Chung, who bounced in and out of the White House like a pizza delivery boy. He brought his pals with him to the White House and set up photograph sessions with the president, Mrs. Clinton and Secks the cat. He was pushy but always welcomed because he was the bearer of good news: money, money and more money.

From "The Constitution and Clinton's War," May 3, 1999

During the interminable agony of Vietnam, senators and representatives first in town and three, and later by the score, swore that "we should never get bogged again"... Sen. Jack Levin, a New York Republican, and I began work on crafting a War Powers Act that would restore a constitutionally proper shared balance between Congress and the president.



U.S. Sen. Thomas Eagleton pauses in his Washington, D.C., office in December, 1986, at the conclusion of his final term in office.

From "The Rule of Law vs. The Rule of Ashcroft," Oct. 31, 2003

Yes, we are in a war... Ashcroft, however, wants to throw out the Bill of Rights in 1870. He claims the right to listen to telephone conversations between the accused and his attorney, Ashcroft orders secret, non-jury trials before three military officers with hearsay and illegally obtained evidence allowed. Throw in some rumors for good measure. Anything goes. Ashcroft does not require "beyond a reasonable doubt," just a two-out-of-three vote. No right of appeal to the courts. The Wall Street Journal advocates speedy justice. How about try 'em on Day One hang 'em on Day Two?

From "Slant, slant and more slant," Oct. 22, 2003

Bear in mind that we had no human intelligence in Iraq itself. Our human intelligence was Ahmad Chalabi, the man in the Bin-Laden Brothers suit, absent from Iraq for more than 40 years. He claimed to have a network of reliable informants in Iraq. The Defense Department either believed or wanted to believe Chalabi. The CIA and State Department thought he was a joke...

OUR LOCAL CONTRIBUTORS

Building consensus: Respect and heavy lifting required

For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the order grows the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.

- Benjamin Franklin, 1795

By Terrence Freeman

I live on a slippery slope surrounded by contradictory peaks of ideological certainty. Mine is a virtual neighborhood filled with subtle distinctions, nuanced arguments, studied errors, reasoned debate, ethical dilemmas, competing interests, flip-flops and hypocrisy — most of which can be found, admittedly, at my own address.

As much as we may seek the comfort of ideologi-

cal certainty, we live perpetually on slippery slopes where great men and women throughout history have wrestled with and warned of forces that tug and tear at the fabric of freedom. What made them so was their vigilance, cynicism and commitment to restraining systems and protections that would endure past their time.

Every difference of opinion is not a difference of principle. When we put ideology and rhetoric about investigation and reason, we avoid the heavy lifting needed to sustain a robust representative democracy.

In doing so, we will find that terrorists and other opposing forces inflict less damage on our way of life than we inflict on ourselves. How do we preserve a way of life that respects differences but unites in defense of the democratic ideals and rights we share? It requires heavy lifting. Those we elect must guard our security and safety, but laws and judicial protections are not just about criminals and terrorists; they also are about the wrongfully accused. For history reminds us that in times of overwhelming fear or greed, we have



Freeman

harmed, lynched, imprisoned, interned, displaced and destroyed lives through false accusations. The American people are more than capable of making difficult choices when given honest information, sober assessment and realistic alternatives. Secrecy, misdirection, expediency, sound bites, photo ops, propaganda and personal attack are nothing but tools to avoid making hard choices.

Our nation is made stronger when we do the difficult work needed to arrive at consensus, not a mere 501 percent majority. Our politicians are made stronger by having to answer tough questions, but they — like all of us — are imperfect, and we have to allow them to make mistakes in good faith and not penalize them if they admit error.

From school boards to Congress to mayors and presidents, we must demand that our leaders do

that heavy lifting, that they creatively seek solutions to persistent problems through civil discourse and intelligent debate, that they serve the people they represent. We, in turn, need to suspend our partisan leanings, examine issues from multiple perspectives and refuse to settle for simple either/or choices.

Leadership — always a difficult endeavor, sometimes a treacherous one — is about more than accomplishing an immediate objective; it also is about maintaining and sustaining the human resources and relationships that will be required to deal successfully with challenges yet to come.

I live on a slippery slope where the judgments of others matter. I like the neighborhood.

Terrence Freeman of Spanish Lake is an engineering professor at St. Louis Community College. He has been a member of engineering professional organizations and served in his career, managed an urban planning firm, a national program director for 100 Black Men of America, Freeman has served as a consultant and volunteer for churches, community organizations, schools, industry and law enforcement agencies.

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