this rule did not apply to freed slaves. The Court held that United States citizenship was enjoyed by only two classes of people: (1) white persons born in the United States as descendants of "persons, who were at the time of the adoption of the Constitution recognised as citizens in the several States, [and who] became also citizens of this new political body," the United States of America, and (2) those who, having been "born outside the dominions of the United States," had migrated thereto and been naturalized therein.[3] Freed slaves fell into neither of these categories.

The Court further held that, although a state could confer state citizenship upon whomever it chose, it could not make the recipient of such status a citizen of the United States. Thus, the "Negro," as an enslaved race, was ineligible to attain United States citizenship, either from a state or by virtue of birth in the United States. Even a free man descended from a Negro residing as a free man in one of the states at the date of ratification of the Constitution was held ineligible for citizenship.[4] Congress subsequently repudiated this concept of citizenship, first in section 1[5] of the Civil Rights Act of 1866[6] and then in section 1 of the Fourteenth Amendment. In doing so, Congress set aside the *Dred Scott* holding, and restored the traditional precepts of citizenship by birth.[7]

Based on the first sentence of section 1,[8] the Court has held that a child born in the United States of Chinese parents who were ineligible to be naturalized themselves is nevertheless a citizen of the United States entitled to all the rights and privileges of citizen-

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tics? (1967). *See also* Don E. Fehrenbacher, The Dred Scott Case: Its Significance in American Law and Politics (1978); M. Graber, Dred Scott and the Problem of Constitutional Evil (2006); Earl M. Maltz, Dred Scott and the Politics of Slavery (2007); Symposium, *150th Anniversary of the Dred Scott Decision*, 82 Chi.-Kent L. Rev. 1–455 (2007).

[3] 60 U.S. (19 How.) at 406, 418.

[4] 60 U.S. (19 How.) at 404–06, 417–18, 419–20 (1857).

[5] The proposed amendment as it passed the House contained no such provision, and it was decided in the Senate to include language like that finally adopted. Cong. Globe, 39th Cong., 1st Sess. 2560, 2768–69, 2869 (1866). The sponsor of the language said: "This amendment which I have offered is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is . . . a citizen of the United States." Id. at 2890. The legislative history is discussed at some length in Afroyim v. Rusk, 387 U.S. 253, 282–86 (1967) (Justice Harlan dissenting).

[6] "That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude . . . shall have the same right[s] . . . ." Ch. 31, 14 Stat. 27.

[7] United States v. Wong Kim Ark, 169 U.S. 649, 688 (1898).

[8] "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."