



# **The Reconstruction Justice of Salmon P. Chase: In Re Turner and Texas v. White**

*Harold M. Hyman*

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The demise of the Confederacy left a legacy of legal arrangements that raised fundamental and vexing questions regarding the legal rights and status of former slaves and the status of former Confederate states. As Harold Hyman shows, few individuals had greater impact on resolving these difficult questions than Salmon P. Chase, chief justice of the United States Supreme Court from 1865 to 1873.

Hyman argues that in two cases *In Re Turner* (1867) and *Texas v. White* (1869) Chase combined his abolitionist philosophy with an activist jurisprudence to help dismantle once and for all the deposed machineries of slavery and the Confederacy. In these cases, Chase sought to consolidate the gains of the Civil War era, while demonstrating that the war had both preserved the precious core characteristics of the federal union of states and fundamentally improved the nature of both private and public law.

*In Re Turner* was a private law case decided at the federal circuit level. It involved a black woman's claim that she, a recent slave, was being held in involuntary servitude. Elizabeth Turner's mother had apprenticed Elizabeth to their former master, who had not abided by his contractual obligations to provide Elizabeth with training and compensation, substantively keeping her in slavery. Chase's decision, which relied upon due process and equal protection implications in the thirteenth amendment and 1866 Civil Rights Act, confirmed the rights of emancipated slaves to bargain and contract with employers on a parity with white workers.

*Texas v. White* was a public law case decided in the Supreme Court. It revolved around the issue of whether the holders of U.S. bonds seized and sold by the Confederate state of Texas could demand payment after the war from that state's newly reconstructed government. In effect, Chase and his associate justices were asked to determine the legality of actions committed by all former Confederate states and, thus, to define what constituted a state. Chase's opinion reaffirmed the Union's permanence, and that of the constituent states in the federal union, and the states' duty to respect the legal rights and obligations of all citizens because states were people as well as acreages and institutions.

Hyman's exemplary analysis of these cases reveals how their political, legal, and constitutional aspects were so inextricably interwoven. They secured for Chase a rostrum for both moral and legal reform from which he asserted his strong views on the fundamental rights of individuals and states in an era of sporadically increasing federal power. Hyman's study provides a much-needed reevaluation of those cases both in the context of Chase's life and in terms of their mark on history.

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