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The Fourteenth Amendment: Timeline of Events and Cases, 1865-1965

1865 & 1866- After the Civil War, former confederate states passed Black Code laws that accepted African Americans as free citizens but denied them many rights.

July 1866- In response to the Black Codes, Congress passed the Fourteenth Amendment and sent it to the states for ratification. The Amendment was ratified in July 1868 (former Confederate states were required to ratify the amendment as a condition of readmission to the United States).

1873- The *Slaughter-House Cases* were the first major cases where the Supreme Court interpreted the Fourteenth Amendment. The Court decided, in this case, that the federal government could not protect all civil rights—only those rights traditionally associated with national citizenship, like free access to sea ports. Fundamental civil rights were the domain of the states, and the states could choose whether or not to protect those rights.

1875- Congress passed the *Civil Rights Act of 1875*, which forbid racial discrimination in hotels, public transportation, public parks, and juries.

1876- In *United States v. Cruikshank*, the Supreme Court overturned the convictions of members of a white mob who killed between 100 and 280 black men after a contentious election. The federal government prosecuted the men under a law that made it illegal for people to conspire to deprive others of their constitutional rights. The Court said that this law was unconstitutional because the Fourteenth Amendment limited government actions, but did not prevent individuals from restricting one another’s rights. This ruling effectively stopped the federal government from being able to protect the rights of black citizens.

1880- The Supreme Court struck down a West Virginia law that forbade blacks from serving on juries.

1883- The Supreme Court struck down the *Civil Rights Act of 1875*, saying that the federal government was not allowed to prohibit discrimination by individuals or corporations.

1886- In *Yick Wo v. Hopkins*, the Court ruled that the City of San Francisco’s discriminatory treatment of Chinese businessmen (where the city gave building permit waivers to white business owners but not to Chinese business owners) violated the Equal Protection Clause.

1896- In *Plessy v. Ferguson*, a challenge to a Louisiana law that segregated rail cars, the Supreme Court said that having segregated facilities for blacks and whites did not violate the Equal Protection Clause of the Fourteenth Amendment, so long as the facilities are equal.

1909- The NAACP was founded.

1938- In *Missouri ex rel. Gaines v. Canada*, the Supreme Court ruled that having an all-white law school but no all-black law school in Missouri violated the separate-but-equal concept from *Plessy*.

1948- President Truman desegregated the armed forces.

In *Shelley v. Kraemer*, the Supreme Court held that private neighborhood agreements (which forbid homeowners to sell property to non-white persons) were state-sponsored inequality, as state-funded courts had to enforce the agreements.

1950- In *Sweatt v. Painter*, the Supreme Court ruled that a separate law school for black students in Texas was not “equal” to the law schools available only to white students.

1954- In *Brown v. Board of Education*, the Supreme Court overturned *Plessy* entirely by saying that separate public schools for whites and blacks were “inherently unequal” and could therefore never be constitutional.

1964- Congress passed the *Civil Rights Act of 1964*, a law forbidding discrimination on the basis of race, ethnicity, national origin, religious affiliation, and sex in both private employment and in public accommodations. This included privately owned hotels, movie theaters, restaurants, and any other business that could be seen as having an effect on interstate commerce. The Supreme Court later upheld this law as constitutional within the powers of the Commerce Clause of the Constitution.

**“Black Codes” of Mississippi, 1865**

*After the civil war ended, many states in the South immediately passed laws limiting the freedom of the freed slaves. The laws, called “Black Codes” typically prevented freed slaves from voting, traveling freely, testifying against whites in court, or serving on juries.*

All freedmen, free negroes and mulattoes in this State, over the age of eighteen years, found … with no lawful employment or business …shall be deemed vagrants.

Every civil officer shall, and every person may, arrest and carry back to his or her legal employer any freedman, free negro, or mulatto who shall have quit the service of his or her employer before the expiration of his or her term of service without good cause.

…if the laborer shall quit the service of the employer before the expiration of his term of service, without good cause, he shall forfeit his wages for that year up to the time of quitting.

…no freedman, free negro or mulatto, not in the military service of the United States government, and not licensed so to do by the board of police of his or her county, shall keep or carry fire-arms of any kind, or any ammunition, dirk or bowie knife…

Any freedman, free negro, or mulatto committing riots, routs, affrays, trespasses, malicious mischief, cruel treatment to animals, seditious speeches, insulting gestures, language, or acts, or assaults on any person, disturbance of the peace, exercising the function of a minister of the Gospel without a license from some regularly organized church, vending spirituous or intoxicating liquors…shall…be fined not less than ten dollars, and not more than one hundred dollars, and may be imprisoned at the discretion of the court, not exceeding thirty days.

Questions to Consider

1. Why might the Mississippi legislature have passed the black codes? What was their purpose?

**Report of the Joint Committee on Reconstruction, 1866**

Slavery had been abolished by constitutional amendment. A large proportion of the population had become, instead of mere chattels, free men and citizens. Through all the past struggle these had remained true and loyal, and had, in large numbers, fought on the side of the Union. It was impossible to abandon them, without securing them their rights as free men and citizens… Hence it became important to inquire what could be done to secure their rights, civil and political…

…

The feeling in many portions of the country towards emancipated slaves… is one of vindictive and malicious hatred. This deep‐seated prejudice against color is assiduously cultivated by the public journals, and leads to acts of cruelty, oppression, and murder, which the local authorities are at no pains to prevent or punish. There is no general disposition to place the colored race, constituting at least two‐fifths of the population, upon terms even of civil equality.

…

Congress would not be justified in admitting such communities to a participation in the government of the country without first providing such constitutional or other guarantee as will tend to secure the civil rights of all citizens of the republic…

Questions to Consider

2. The report says: “It was impossible to abandon [freed slaves], without securing them their rights as free men and citizens.” Why?

***Senator Jacob Howard’s speech of May 23rd, 1866, introducing a nearly final version of the 14th Amendment to the Senate.***

The first section of the amendment … declares that— No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Now, sir, here is a mass of privileges, immunities, and rights, some of them secured by the second section of the fourth article of the Constitution… some by the first eight amendments of the Constitution; … all these immunities, privileges, rights… are secured to the citizen solely as a citizen of the United States and as a party in their courts. They do not operate in the slightest degree as a restraint or prohibition upon State legislation. … but [apply] only to the legislation of Congress.

The great object of the first section of this amendment is, therefore, to restrain the power of the States and compel them at all times to respect these great fundamental guarantees.

The last two clauses of the first section of the amendment disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty, or property without due process of law, or from denying to him the equal protection of the laws of the State. This abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. It prohibits the hanging of a black man for a crime for which the white man is not to be hanged. It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man.

[The amendment] will, if adopted by the States, forever disable every one of them from passing laws trenching upon those fundamental rights and privileges which pertain to citizens of the United States, and to all persons who may happen to be within their jurisdiction. It establishes equality before the law, and it gives to the humblest, the poorest, the most despised of the race the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or the most haughty.

Questions to Consider

3. What does Senator Howard say is the “The great object of the first section of this amendment”?

4. What “fundamental guarantees” will the Fourteenth Amendment require states to respect?

5. What types of laws does Senator Howard say the last two clauses will abolish?

Amendment XIV, Sections 1 and 5, ratified 1868

Section 1. 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. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Questions to Consider

6. What does “equal protection of the laws” mean to you?

**The *Civil Rights Cases* (1883)**

*In this case, the Supreme Court ruled that the Civil Rights Act of 1875 was unconstitutional. That law had banned some forms of racial discrimination by private individuals and businesses.*

**Majority Opinion (Justice Bradley)**

It is State action of a particular character that is prohibited [by the Fourteenth Amendment]. Individual invasion of individual rights is not the subject matter of the amendment.

When a man has emerged from slavery, and, by the aid of beneficent legislation, has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected.

Questions to Consider

7. What is the difference between “state action” and “individual invasion of … rights”? Which does the Court say is prohibited by the Fourteenth Amendment?

8. Why did the Court see the Civil Rights Act of 1875 as making African Americans “a special favorite of the laws”?