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DOCUMENTS of FREEDOM

HISTORY, GOVERNMENT & ECONOMICS THROUGH PRIMARY SOURCES

Unit: The Tradition of Rights

Reading: The End of Slavery and the Reconstruction Amendments

Activity: Amendments and Cases

Handout C: Court Cases

Slaughterhouse Cases – Background

Only five years after the Fourteenth Amendment was ratified, the Supreme Court took the opportunity to interpret it. Upstream from New Orleans, butchers often dumped animal processing waste into backwaters of the Mississippi River. Among the ensuing problems was repeated outbreaks of cholera in the city. In 1869, the Louisiana legislature required the city to create a corporation that centralized slaughterhouse operations downstream, resulting in a monopoly. The Butchers' Benevolent Association sued to stop this takeover of their business, referring to the three clauses of the Fourteenth Amendment. They argued that they had been deprived of their right to exercise their trade and earn an honest living. The question before the Court was whether the creation of the monopoly violated the Thirteenth and Fourteenth Amendments. In a 5-4 decision, the Court majority focused its ruling on only the Privileges or Immunities Clause and interpreted it narrowly, applying it to national, but not state, citizenship. Justice Samuel Freeman Miller wrote in the majority opinion that the Fourteenth Amendment did not restrict the police powers of the state. The right to earn a living in one's chosen trade was not included in the Fourteenth Amendment's protections.

Slaughterhouse Cases (1873) – Excerpt from Majority Opinion, Justice Miller

...We venture to suggest some [privileges and immunities] which owe their existence to the Federal government, its National character, its Constitution, or its laws.

...It is said to be the right of the citizen of this great country, protected by implied guarantees of its Constitution, "to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions. He has the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the subtreasuries, land offices, and courts of justice in the several States."

Another privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. ...The right to peaceably assemble and petition for redress of grievances, the privilege of the writ of *habeas corpus*, are rights of the citizen guaranteed by the Federal Constitution. The right to use the navigable waters of the United States, however they may penetrate the territory of the several States, all rights secured to our citizens by treaties with foreign nations, are dependent upon citizenship of the United States, and not citizenship of a State...

1. Did this decision define the "privileges or immunities" of U.S. citizens narrowly or broadly? Explain.
2. What effect did this have on the overall interpretation of the Fourteenth Amendment?

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Civil Rights Cases (1883)

[Federal civil rights] legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would ... make congress take the place of the state legislatures and to supersede them.

It is absurd to affirm that, because the rights of life, liberty, and property ... are by the [Fourteenth] Amendment sought to be protected against invasion on the part of the state without due process of law, Congress may, therefore, provide due process of law for their vindication in every case; and that, because the denial by a state to any persons of the equal protection of the laws is prohibited by the amendment, therefore congress may establish laws for their equal protection.

1. Which level of government does this opinion imply has the power to correct state violations of rights to life, liberty and property?