

STUDY GUIDE

CIVIL RIGHTS IN AMERICAN HISTORY

LECTURE 4

THE FIRST CIVIL RIGHTS ACT AND THE FOURTEENTH AMENDMENT

OUTLINE

0:00-8:25— Civil Rights and Reconstruction

- Following the Civil War, the Republicans in power wanted to restore the Southern states to the Union and protect the rights of newly emancipated black Americans.
- The task of securing the natural rights of the freedmen was further complicated by the fact that the Constitution did not formally define what a citizen was or enumerate a citizen's civil rights.
- As a result, Congress had to address the question of black citizenship in 1865.
 - In doing so, they had to tackle the "black codes" that Southern states had enacted after the war.
 - Although these codes tried to define the legal status of the former slaves, none of them granted them the same civil rights as whites.
 - For example, blacks were not allowed to have firearms, were not allowed to own real estate, and could not work certain jobs.
 - The best existing federal document to attempt to define citizenship and civil rights was a circuit court opinion authored by Bushrod Washington, George Washington's nephew, in 1823.
 - This opinion stated that the rights enjoyed by citizens included: substantive rights, procedural rights, and the right to vote.

8:26-12:50— The Civil Rights Act of 1866

- Congress attempted to give force to the Privileges and Immunities Clause of the Constitution – and define civil rights and citizenship – through the Civil Rights Act of 1866.
- The Act was passed with the understanding that, by freeing the slaves through the Thirteenth Amendment, Congress had the power to secure their rights as well.
 - The Act declared that all black Americans, regardless of their former status as slaves, were considered citizens and were guaranteed the same civil rights as whites.
 - Moreover, the Act also granted the federal government the power to punish those who violated others' civil rights and gave the former slaves access to the federal courts.
 - Through this first civil rights act, the federal government signaled its willingness to become involved in the protection of civil rights.

12:51-23:34— The Fourteenth Amendment

- The Fourteenth Amendment was an attempt to make permanent the Civil Rights Act of 1866.
 - The problem with the Civil Rights Act of 1866 was that it could be repealed once the former Confederate states returned to the Union.
- Section I of the Fourteenth Amendment was the most important part, since it defined citizenship nationally.
 - Borrowing language from the Civil Rights Act of 1866, Section I not only defined citizenship but also tried to give force to the Privileges and Immunities Clause.
 - It also prohibited a state from depriving any person of due process and equal protection of the laws.
 - Due to the broad language used in the Amendment, however, judges would be able to use it to protect any rights they thought fundamental over the next century.
 - Though the Amendment proved effective in curbing state action, it was weak against private action, such as the actions of the Ku Klux Klan.
- Section II of the Amendment concerned voting rights.
 - Though it did not guarantee blacks voting rights nationally, however, it did require that Southern states enfranchise them in order to retain representation in Congress.
 - Ultimately, the Fifteenth Amendment was needed to guarantee blacks suffrage.

- Finally, Sections III and IV had to do with the former leaders of the Confederacy and the Civil War.
 - Section III excluded from political life all those who had taken and then violated their oath to uphold the Constitution.
 - Section IV declared that Confederate debt could not be paid back, since it would compensate former masters for their slaves.
- Taken altogether, the Southern states needed to ratify the Fourteenth Amendment if they were to be readmitted to the Union.

KEY PASSAGES

"We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject nevertheless to such restraints as the government may justly prescribe for the general good of the whole."

- Bushrod Washington, *Corfield v. Coryell*, Article 4, Section 3.1

"Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, 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."

- Civil Rights Act of 1866

"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."

- Constitution of the United States of America, Amendment XIV

DISCUSSION QUESTIONS

What were the primary challenges Congress faced at the beginning of Reconstruction? Did Congress adopt the right strategy?

What prompted Congress to pass the Civil Rights Act of 1866?

What does Andrew Johnson’s veto of the Civil Rights Act of 1866 reveal about the state of American politics and public opinion at that time? What were the consequences of his opposition?

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