

# Fourteenth Amendment

(1868)

## CHARLESTON MERCURY EXTRA:

Passed unanimously at 1.15 o'clock, P. M. December  
20th, 1860.

### AN ORDINANCE

To dissolve the Union between the State of South Carolina and  
other States united with her under the compact entitled "The  
Constitution of the United States of America."

We, the People of the State of South Carolina, in Convention assembled, do declare and ordain, and  
it is hereby declared and ordained,

That the Ordinance adopted by us in Convention, on the twenty-third day of May, in the  
year of our Lord one thousand seven hundred and eighty-eight, whereby the Constitution of the  
United States of America was ratified, and also, all Acts and parts of Acts of the General  
Assembly of this State, ratifying amendments of the said Constitution, are hereby repealed;  
and that the union now subsisting between South Carolina and other States, under the name of  
"The United States of America," is hereby dissolved.

THE  
**UNION**  
IS  
**DISSOLVED!**

*The Charleston Mercury distributed this broad-  
side announcing that South Carolina had seceded  
from the Union in December 1860. The Con-  
stitution did not provide for secession, and the  
Northern states fought to preserve the Union.*

## WHAT IT SAYS

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 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

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

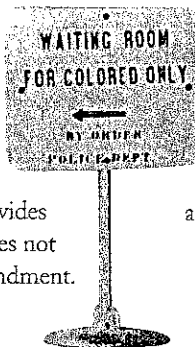
# TIMELINE



Jim Crow laws are accepted as constitutional

1876

In response to efforts in the southern states to segregate people by race—"Jim Crow" laws and practices—Congress passes the Civil Rights Act of 1875, which guarantees equal rights to all citizens in all public places. When African Americans are denied equal accommodations they sue, but in 1883 the Supreme Court rules that the Fourteenth Amendment deals with discrimination by the states, not by individuals. Then in *Plessy v. Ferguson*, the Court upholds a Louisiana law that segregates railroad cars, reasoning that if the law provides equal accommodations it does not violate the Fourteenth Amendment.



The Supreme Court upholds minimum wage laws

1937

For decades, the Supreme Court strikes down reforms designed to aid women and children workers on the grounds that these laws impair the freedom of contract under the Fourteenth Amendment. After California enacts a minimum wage for women workers, Elsie Parrish sues a hotel company for paying her less than this minimum wage. The Supreme Court upholds the state law by noting that the Constitution does not mention the freedom of contract, that all liberties are subject to due process, and that employers and employees are not equally free when it comes to negotiating work agreements.

School segregation is found unconstitutional

1954

Since *Plessy v. Ferguson*, the courts have accepted racial segregation as long as all races are treated equally. In many states, schools for whites and African Americans are separate but far from equal in funding and equipment. In

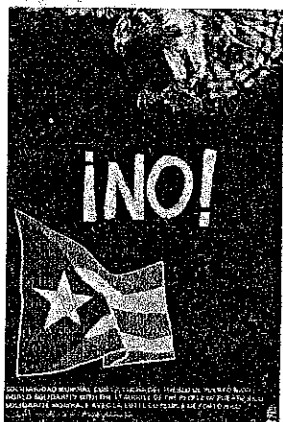


*Brown v. Board of Education of Topeka, Kansas*, the Supreme Court concludes that school segregation denies students the equal protection of the laws. The Court orders schools to integrate "with all deliberate speed."

English literacy tests cannot ban otherwise qualified voters

1966

As citizens of the United States, Puerto Ricans who moved to New York State seek to vote, but the state requires them to pass an English-language literacy test. Some file suit on the grounds that this law violates the Voting Rights Act of 1965. In *Katzbach v. Morgan* the Supreme Court cites the Fourteenth Amendment's equal protection clause in upholding the Voting Rights Act, and stipulates that those who have achieved at least a sixth-grade education in Puerto Rico cannot be denied the right to vote.



U.S. citizens have a right to challenge being held as an enemy combatant

2004

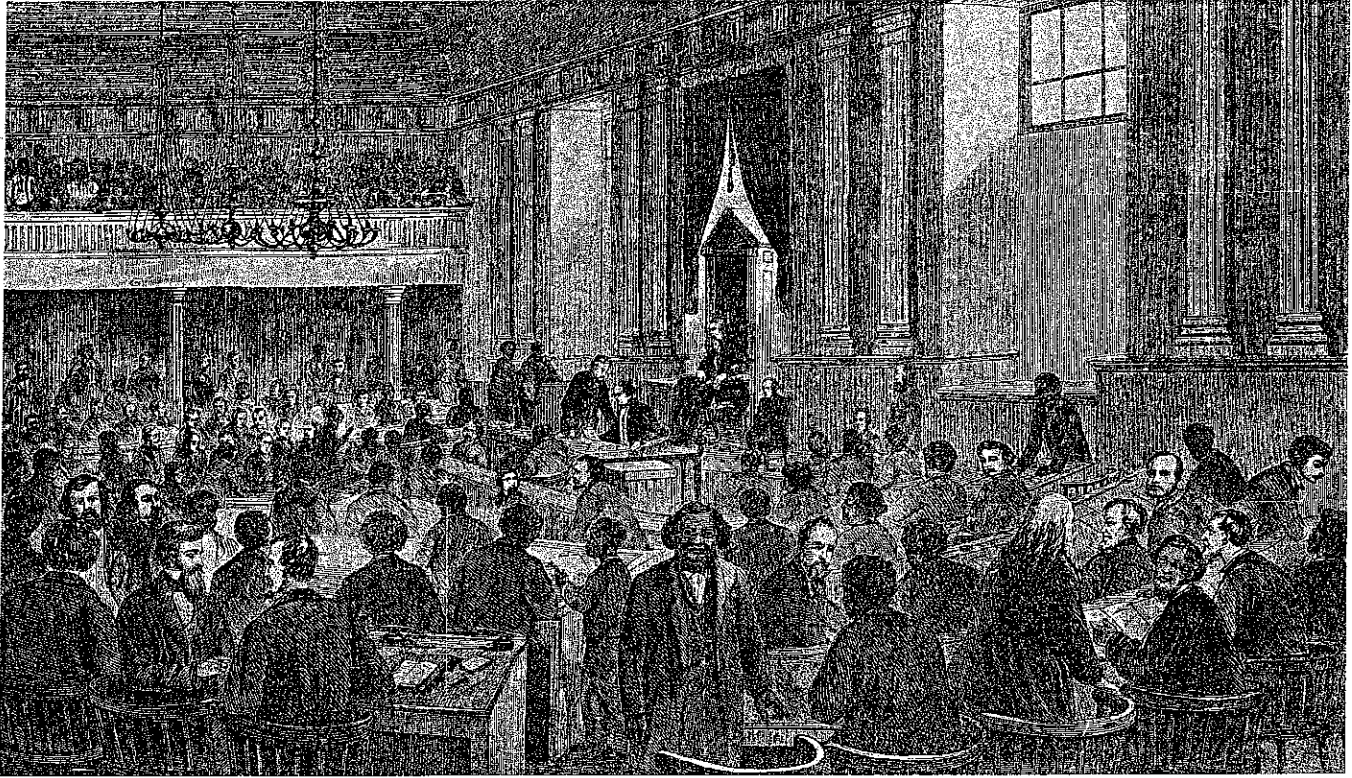
The U.S. government believes that Yaser Esam Hamdi, an American citizen, has taken up arms to support the Taliban, the radical regime in Afghanistan. After U.S. forces overthrow the Taliban, Hamdi is seized and detained in Guantanamo Bay, and later transferred to a prison in Charleston, South Carolina. By calling Hamdi an enemy combatant, the Defense Department asserts that it can hold him indefinitely without trial. In *Hamdi v. Rumsfeld*, the U.S. Supreme Court disagrees, finding that due process demands that any U.S. citizen held in the United States be given a meaningful opportunity to contest the basis for that detention.

Execution of juveniles is ruled unconstitutional

2005



In a 5-to-4 decision in the case of *Roper v. Simmons*, the U.S. Supreme Court rules that executing juveniles who were under eighteen at the time they committed a capital crime is a violation of the Eighth and Fourteenth Amendments to the Constitution. The majority cites "evolving" social attitudes in the United States, where thirty states have banned the execution of juveniles, and around the world, where all but five other nations have also prohibited it.



## WHAT IT MEANS

Although it was created primarily to deal with the civil rights issues that followed the abolition of slavery, the Fourteenth Amendment has affected a broad range of American life, from business regulation to civil liberties to the rights of criminal defendants. Over time, the Supreme Court has interpreted the amendment to apply most of the guarantees of the Bill of Rights to the states as well as the federal government. The amendment contained three new limitations on state power: states shall not violate citizen's privileges or immunities or deprive anyone of life, liberty, or property without due process of law, and must guarantee all persons equal protections by the law. These limitations on state power dramatically expanded the reach of the U.S. Constitution.

Fulfilling its original purpose, the Fourteenth Amendment made it clear that everyone born in the United States, including a former slave, was a citizen. This voided the Supreme Court's ruling in *Dred Scott v. Sandford* (1857), which had asserted that African Americans were not citizens, and therefore were not entitled to constitutional rights. Yet, for a century after the ratification of the Fourteenth Amendment, the Supreme Court believed that racial segregation did not violate the "equal protection of the laws" provision in the amendment as long as equal facilities were provided for all races. This attitude changed dramatically in 1954 when the justices concluded that the intent of the Fourteenth Amendment made racially segregated schools unconstitutional. The Court has gradually adopted a much broader interpretation of the amendment that extends greater protection to women, minorities, and noncitizens.

*Black delegates participated in the convention that drafted a new constitution for Virginia after the Civil War. The Reconstruction Act of 1867 required that all former Confederate states write new constitutions.*

*“Due process has not been reduced to any formula; its content cannot be determined by reference to any code. The best that can be said is that through the course of this Court’s decisions it has represented the balance which our Nation built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society.”*

—Justice John Marshall Harlan,  
dissenting opinion,  
*Poe v. Ullman* (1961)

The Fourteenth Amendment also specified that all adults must be counted for purposes of apportioning the House of Representatives, thereby voiding the “three-fifths” clause of the original Constitution. Ironically, this provision increased the number of representatives for the former Confederate states when they reentered the Union. By the twentieth century, this provision also justified the Supreme Court’s insistence that state legislative bodies and the U.S. House of Representatives be apportioned equally. The amendment also addressed concerns about the number of Confederates seeking to serve in Congress after the Civil War. Former Confederate federal and state officials and military personnel were required to take an oath of loyalty to the United States. The former Confederate states were also prohibited from repaying the Confederate debts or compensating former slave owners for the property they lost with the abolition of slavery.

Finally, the last section of the amendment gave Congress the power to enforce all the provisions within the whole amendment. Under this provision, Congress passed the Civil Rights Act of 1964, the Voting Rights Act of 1965, sections of other civil rights legislation that protect women’s rights, and the Americans with Disabilities Act, affording equal treatment for disabled people.

Over time, the Supreme Court has interpreted the Fourteenth Amendment’s due process clause to incorporate (or apply) many of the guarantees of the Bill of Rights to the states, as well as to the federal government. The concept of incorporation has dealt mostly with such “fundamental” rights as freedom of speech, press, religion, assembly, and petition. Because the Court has not held the states subject to some of the other provisions of the Bill of Rights, such as the right to bear arms or the right to a trial by jury in civil cases, its approach has been called “partial incorporation.”

# Fifteenth Amendment

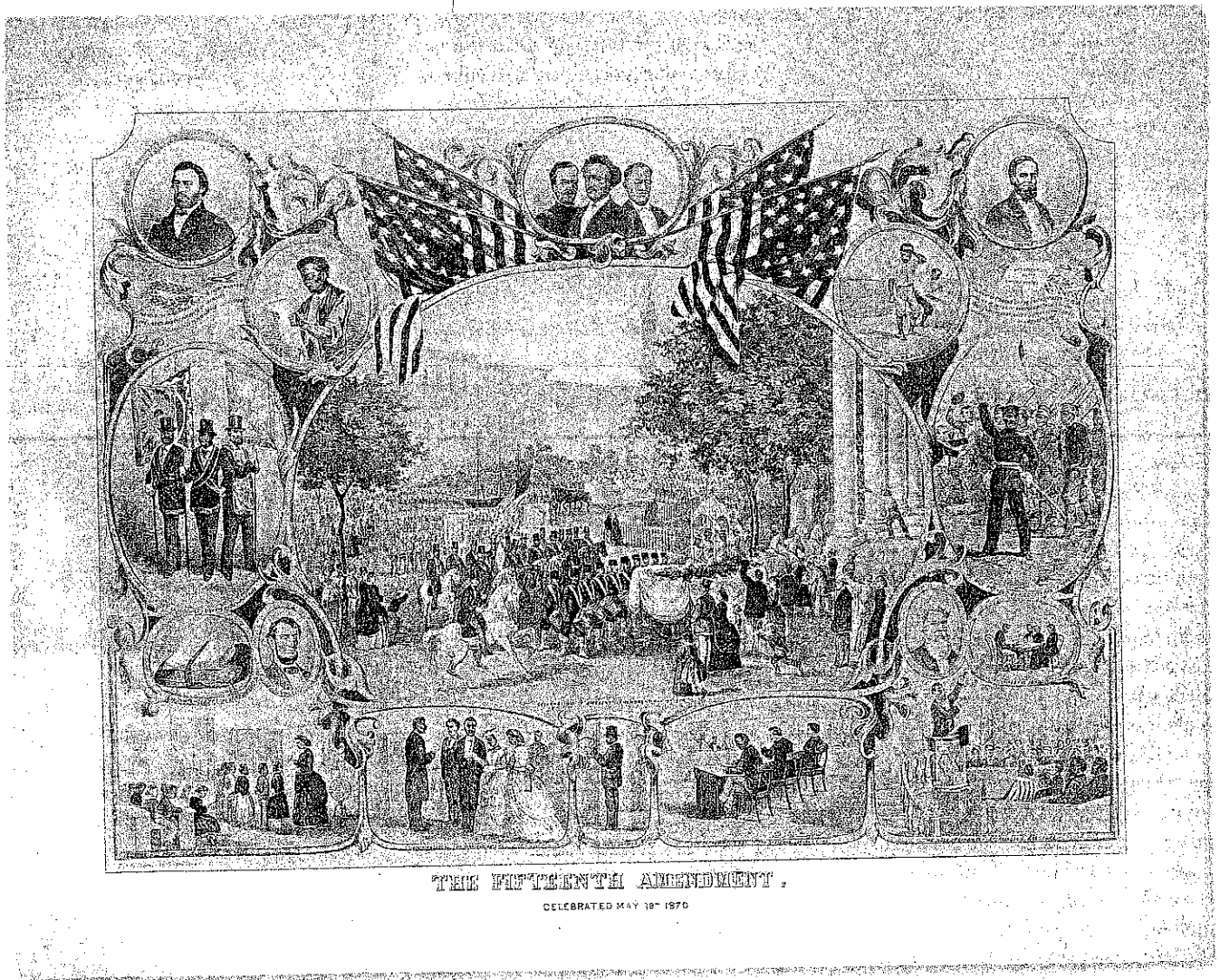
(1870)

## WHAT IT SAYS

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

*A triumphant poster commemorates the Fifteenth Amendment with scenes depicting the advancement of African Americans since emancipation. The Fifteenth Amendment was the last of the three Reconstruction Amendments.*



# Fifteenth Amendment

Congress passes the Enforcement Act of 1870

End of Reconstruction

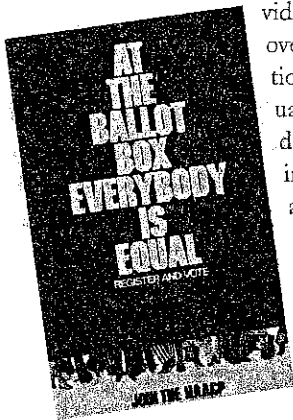
The Supreme Court upholds literacy tests

1870

1877

1898

Following ratification of the Fifteenth Amendment, Congress passes the Enforcement Act, which creates criminal penalties for those who interfere with voting rights. The next year, Congress passes the Force Act of 1871, which provides for federal oversight of elections if individual states are deemed unwilling to hold fair and open elections on their own.



Voting by freed African Americans dramatically changes the political climate in the southern states, enabling black candidates to win seats in Congress and the state legislatures. As part of an agreement that settles the disputed election of 1876, President Rutherford B. Hayes orders the removal of troops from the states still under Reconstruction. He hopes this move will bring the North and South together. However, the withdrawal of the troops and the end of federal oversight of elections means that many southern blacks lose the voting rights they had exercised since Emancipation.



Southern states also impose literacy tests for voting, on the grounds that voters need to be educated to make good decisions. Because former slaves often have little education, and because white officials administer the tests, literacy tests exclude many African Americans from voting. In *Williams v. Mississippi*, the Supreme Court holds that Mississippi's constitutional amendment requiring literacy tests does not violate the U.S. Constitution, as long as it is applied equally to all applicants.

Literacy tests are ruled unconstitutional

Civil Rights Act creates a commission to investigate discrimination

Civil Rights Act addresses racial inequities

1949

1957

1964

Although literacy tests for voting apply to both blacks and whites, they exclude more African Americans from registration because of poor education and discriminatory administration that require African American applicants to pass more difficult tests. The U.S. Supreme Court in *Davis v. Schnell* hold Alabama's literacy test unconstitutional as it is clearly intended to deny the vote to African Americans and thus violates the Fifteenth Amendment.



In response to low voter registration among African Americans, President Dwight D. Eisenhower proposes the Civil Rights Act of 1957—the first since Reconstruction. The law creates the Civil Rights Commission to investigate acts of interference with citizens' right to vote and to monitor other civil rights abuses. Civil rights leaders complain that the law is weakened because it provides for violators to be tried locally, meaning that those attempting to disenfranchise blacks would gain a sympathetic jury.

Responding to civil rights protests in the South, Congress passes the Civil Rights Act of 1964 after a lengthy filibuster by southern senators. The law prohibits discrimination in public accommodations, employment, education, and governmental services. The act also strengthens the Fifteenth Amendment by prohibiting discrimination in voting and makes voting requirements more uniform.

## WHAT IT MEANS

The Fifteenth Amendment prohibits the use of race in determining who can vote. The last of the three Reconstruction Era amendments, ratified shortly after the Civil War, the Fifteenth Amendment sought to advance the civil rights and liberties of the freed slaves and other African Americans. Section 2 of the amendment gave Congress the power to enforce it, by establishing federal legislation that ensures racial equality in voting.

The ratification of the Fifteenth Amendment in 1870 initially resulted in African Americans voting and holding office in many southern states. Later in the nineteenth century, these states imposed poll taxes, literacy tests, and other tactics to keep African Americans from voting. The ratification of the Twenty-fourth Amendment in 1964, and the passage of the Voting Rights Act of 1965, along with a number of Supreme Court decisions, have once again guaranteed voting rights as the Fifteenth Amendment envisioned.



*Two college students assist a Mississippi woman in registering to vote during the "Freedom Summer" of 1965. The Fifteenth Amendment provided that the right to vote should not be restricted on account of race.*

## THE VOTING RIGHTS ACT OF 1965



*Members of the NAACP in Detroit held a mock funeral for "Jim Crow," the symbol of racial segregation. Despite the Reconstruction Amendments, the Supreme Court had ruled in 1896 that "separate but equal" was constitutional.*

By 1965, a century after the Civil War, African Americans in the South still faced barriers to the right to vote, despite the Fifteenth Amendment's guarantee. They were registered to vote in far smaller numbers than whites. When they attempted to register, discrimination and intimidation prevented them. The National Association for the Advancement of Colored People (NAACP) and the federal government pursued a strategy of suing for voting rights in individual cases, but these cases did not have as far-reaching an effect as

they had hoped. Only national legislation could achieve equality in voting rights.

President Lyndon B. Johnson was inspired to push for voting rights legislation when, in March 1965, a group of courageous African Americans marched from Selma, Alabama, to the state capital of Montgomery on behalf of voting rights. The marchers had gone only a few blocks when state troopers attacked them with clubs and tear gas. The Reverend Martin Luther King Jr. arrived to lead a much larger demonstration of African Americans and whites from across the nation determined to continue the march. A court issued an injunction that protected the right of the marchers to petition the government about their grievances. With this injunction, the marchers were allowed to cross the Pettus Bridge in Selma, in full view of television cameras from the national networks. As the marchers made their way to Montgomery their numbers swelled and the nation's attention was drawn to the struggle for voting rights in the South. Coupled with the violent murder of three civil rights workers during the previous Freedom Summer, when African American and white students from the South and North worked to register southern African

American voters, the Selma March demonstrated to the nation the unfair and unconstitutional treatment of African Americans in the South.

President Johnson told the nation that "every American citizen must have an equal right to vote. Yet the harsh fact is that in many places in this country, men and women are kept from voting simply because they are Negroes." He called on Congress to enact legislation that would strengthen the Fifteenth Amendment by allowing the federal government to supervise voting requirements and ensure that registered voters were actually allowed to cast their ballots. The Voting Rights Act ultimately won overwhelming approval in Congress, passing the House of Representatives by a vote of 333 to 48, and the Senate by a vote of 77 to 19.

Southern states asserted that the Voting Rights Act went beyond the authority of the federal government and brought lawsuits challenging its constitutionality. The Supreme Court, in *South Carolina v. Katzenbach* (1965), rejected those challenges and upheld the Act. As a result, African Americans are registered to vote at rates much higher than they were before the law was passed, and the promise of the Fifteenth Amendment is closer to being fulfilled.

# TIMELINE



Labor contracts are not considered involuntary servitude

Laws allowing forced labor are found unconstitutional

Obligating convicts to work off fines is involuntary servitude

1897

1903

1914

Sailors working on the commercial ship the *Arago* in California find themselves in jail when they try to quit. Local marshals bring them back to the ship and force them back to work. The sailors sue, claiming that the forced labor is a violation of the Thirteenth Amendment's ban on involuntary servitude. But, in *Robertson v. Baldwin*, the Supreme Court rules that there has not been a Thirteenth Amendment violation. The men had all signed employment contracts, so their labor is not "forced" and they have an obligation to complete the work they have contracted to do.

In a series of cases known as the Peonage Cases, the Supreme Court declares unconstitutional an Alabama law that allows landowners to force farmers to work off their debts or face criminal charges and possible prison. A number of sharecroppers (farmers who rent the land they farm) who have fallen behind in their payments to the landowners challenge the law as a violation of the Thirteenth Amendment. The Supreme Court agrees that this is involuntary servitude because the farmers are prevented from seeking other employment and thereby finding alternative ways of paying the debt.

In *United States v. Reynolds*, the Supreme Court finds unconstitutional an Alabama law that allows people to pay off the fines of someone convicted of a misdemeanor, thus freeing the convict from jail, on the condition that the convict works to pay off the debt. Finding that the law allows for "involuntary servitude," the Court notes that the work required to pay the debt can be harsher than if the convict had been sentenced to imprisonment at hard labor in the first place.



A baseball player sues over being traded without his consent

Mandatory "community service" in schools is not involuntary servitude

Bush signs national security directive against human trafficking

1972

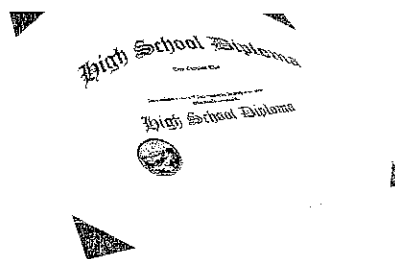
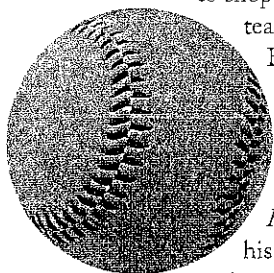
1993

2003

Curt Flood, one of baseball's top players, is traded to the Philadelphia Phillies without his consent and is not allowed to shop his talents to other teams in the league.

Because Flood had the option to quit playing baseball altogether, the Supreme Court in *Flood v. Kuhn* denies his claim that the trade violates the Thirteenth

Amendment's prohibition on involuntary servitude.



In *Steirer v. Bethlehem Area School District*, a U.S. court of appeals rules that a high school community service requirement does not constitute involuntary servitude prohibited by the Thirteenth Amendment. Growing numbers of school districts thereafter add community service to the requirements needed for a high school diploma.

Calling human trafficking "a modern day form of slavery," President George W. Bush signs a directive to crack down on those who deal in the buying and selling of people (usually in the sex trade industry) both here and abroad. The executive order establishes the cabinet-level President's Interagency Task Force to Monitor and Combat Trafficking in Persons.

