

Great Debates in American Democracy
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Throughout the second half of the nineteenth century the focus of political and civil rights was on African Americans. Since the founding of the United States they had been largely disfranchised by the American government and the American people; it was not until after the Civil War that they began to gain some of the rights they had long been denied. By 1890 African Americans had gained political and civil rights from the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution but due to Southern resistance these new legal rights were largely ineffective.

In the period from 1850 to 1890 the United States made significant progress in establishing the rights of African Americans. Near the beginning of this time period African American slaves were not even considered human beings. In the 1857 Dred Scott case Chief Justice Taney states, "And no word can be found in the Constitution ... which entitled property of that kind [slavery] to less protection than property of any other description" (Dred Scott case, page 4). He makes no distinction between slaves and property and also concludes that they are not citizens. In the late 1860s, the views expressed in this case were challenged with the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution. The Thirteenth Amendment declares slavery illegal while the Fourteenth Amendment answers the first question in the Dred Scott case, is the African American a citizen of the United States? "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" (Amendment XIV, section 1). The

answer is a clear “yes” and a clear disagreement with Chief Justice Taney’s decision in 1857.

Despite these significant Amendments, African Americans were not as free as they appeared under the Constitution. The white Southerners were able to subvert the Thirteenth and Fourteenth Amendments to their advantage. An example of this subversion is the court case, *Plessy v. Ferguson*. The case questioned the constitutionality of an 1890 Louisiana law requiring segregation on railway carriages. The court decided that the law was constitutional since the races were “separate but equal.” The court’s decision did not overtly discriminate against African Americans but its assumption that “separate but equal” would work in practice aided Southern racists. Justice Harlan, the sole dissenter in the case, provided a prescient analysis of what the “separate but equal” phrase would really mean: “What can more certainly arouse race hate...than state enactments, which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens?” (*Plessy v. Ferguson*, page 3). Harlan’s view is confirmed by the fact that in the early twentieth century African American voting turnout levels in the South were in the single digits whereas they had been between 60 and 85 percent post-Reconstruction. (Keyssar 115).

The white southerners were also able to use the Fifteenth Amendment, which guarantees African Americans the right to vote, to their advantage. The ratified Fifteenth Amendment simply said, “The right of the 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” (Amendment XV, section 1). It did not protect

American citizens against the discrimination of nativity, property, or education like Henry Wilson's proposal had. (Keyssar 95) The narrow Fifteenth Amendment became ineffective because it was simply a tool that the white Southerners used to impinge upon African American voting rights. Keyssar provides evidence of this with, "These provisions [to suffrage laws] included a sharp increase in the residency requirement, the institution of a two-dollar poll tax, and the imposition of a literacy test..." (Keyssar 111). These provisions, just like Plessy v. Ferguson, helped fuel racial discrimination in the South.

Through the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments African Americans legally gained freedom, citizenship, and the vote respectively. However, due to poor phrasing in the Amendments as well as apathy from the Northerners these rights were exploited by Southern racists. Most African Americans would not enjoy their constitutional rights for decades to come.