

North BancTec Incorporation

5th Amendment

"No person shall be...deprived of life, liberty, or property without due process of law."

All citizens are guaranteed a trial by jury. Individual rights guarantee freedom from government seizure without just compensation. All states must follow the same process.

Substantive Due Process: A judicial finding that a law or government action is unconstitutional because it is arbitrary and capricious, or because it is so unjustly discriminatory that it is a denial of the equal protection of the law.

Procedural Due Process: A process required by the Constitution that states or federal government must follow before depriving a citizen of life, liberty, or property. It does not mean that the government must follow a specific procedure.

Sicof v. Sanford (1857)



Justice Brandeis, dissenting, argued that the 5th Amendment's protection of property extends to the right of a citizen to be heard by a jury before being deprived of his property.

Result: Substantive Due Process rights are established for constitutional rights.

Lochner v. New York (1905)



The Court held that the maximum hours law violated the 14th Amendment's protection of liberty of contract.

Result: Economic protections are eliminated from substantive due process.


Palko v. Connecticut (1937)



The Court held that the 14th Amendment's protection of due process does not require a trial by jury.

Result: Introduced the concept of selective incorporation of rights under Due Process while rejecting universal or total incorporation.

Barron v. Baltimore (1833)



The Court held that the 5th Amendment's protection of property does not apply to the states.

Result: 5th Amendment doesn't apply to states.

Slaughterhouse Cases (1873)



The Court held that the 14th Amendment's protection of equal protection does not apply to the states.

Result: The meaning of the 14th Amendment is very narrow, applying to only protection of citizens on the grounds of race.


Gitlow v. New York (1925)



The Court held that the 14th Amendment's protection of free speech applies to the states.

Result: The Court established the first major case where core liberties were selectively used to incorporate state activities with federal standards.

Equal Protection Clause



The Equal Protection Clause of the 14th Amendment requires that states not deny any person within their jurisdiction the equal protection of the laws.

Result: The Equal Protection Clause is the basis for the development of the Equal Protection Clause.

Other equal protection cases include school desegregation and gay marriage cases like Obergefell v. Hodges.

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5th Amendment

"No person shall be...deprived of life, liberty, or property without due process of law."

All citizens are guaranteed a trial by jury. Individuals who purchase property are guaranteed a trial by jury. All states must follow the same rules as the federal government.

Substantive Due Process: A judicial finding that a law or 14th Amendment rights of governmental processes are fundamentally unfair and unconstitutional. **Procedural Due Process:** A process required by the Constitution that states the order of a hearing, the right to a trial by jury, and a right to a fair trial.

Result: Substantive Due Process rights are established for constitutional rights.

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Result: Substantive Due Process rights are established for constitutional rights.

Lochner v. New York (1905)

Result: Economic protections are eliminated from substantive due process.

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Result: Introduce the concept of selective incorporation of rights under Due Process while rejecting universal or total incorporation.

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Result: The meaning of the 14th Amendment is very narrow, applying to only protection of citizens on the grounds of race.

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Result: The Courts established the first major case where core liberties were selectively used to incorporate state activities with federal standards.

Equal Protection Clause

States cannot discriminate against citizens by race. When there is a state law that discriminates against citizens, the state is in violation of the Equal Protection Clause.

Result: The Equal Protection Clause is the basis for the Civil Rights Act of 1964.

Other equal protection cases include school busing and gay marriage cases like Obergefell v. Hodges.

Instructional Goals

You should be able to :

- **Explain how the due process clause of the Fourteenth Amendment has been interpreted through judicial review to selectively protect or restrict individual liberty.**
- **Explain the extent to which states are limited by the due process clause from infringing upon individual rights**
- **Assess the implications of the doctrine of selective incorporation for the balance of power in the federal system**

Entitlement



What kinds of things do you feel the government, either federal or state, is obligated to give you?

For starters, how about education?

Privileges & Immunities

Many of these things are called privileges and immunities. They are granted by the government.

Congress started the Bill of Rights in 1791 that states could not take away. The federal government could not pass laws that would take away the rights of the states. The Bill of Rights is the first part of the Constitution. It lists other things that the government has to do.

More important than P&I are the rights and liberties that are listed in the Bill of Rights.

The government has legal processes to follow to make sure that it is not taking away any of our rights.

Care Rights & Liberties