Civil rights: laws and key Court decisions, 1866-1960

laws enacted, 1800s:
Civil Rights Act of 1866 (precursor of 14th Amendment)
14th Amendment 1868; 15th Amendment 1870
Enforcement Acts of 1870 & 1871 (three acts, including KKK Act of 1871)
Civil Rights Act of 1875 (public accommodations)
Repeal of Enforcement Acts, 1894

Proposed laws defeated, before 1950s:
Federal Elections Bill (Lodge Bill or Force Bill), 1890-91 (filibustered)
Bills to reduce southern apportionment under Sec. 2 of 14th Amdmt: failed 1899, 1901
Anti-lynching bills, 1920s-1930s

- Dyer anti-lynching bill (passes House, filibustered in Senate) 1922
- anti-lynching bills became a practically yearly fixture: Repubs 1924 & '28
- first Dem-sponsored anti-lynching bill 1934-35
- Senate filibusters against Dem bills upheld by Republican votes, 1938 & 1940

Significant early civil rights Court cases:
Slaughterhouse Cases, 1873: acknowledged 14th Amendment civil rights purposes, but gave extremely narrow definition to "privileges or immunities of citizens of the United States"

Early anti-civil-rights decisions:

- *Blyew et al. v. U.S.* (1873) indirectly (by tendentiously holding that the witnesses were not relevant) approved Kentucky prohibition of black witness testimony
- *U.S. v. Cruikshank* (1875) invalidated enforcement of Enforcement Act of 1870 upon private persons
- *U.S. v. Reese* (1875) invalidated Enforcement Act of 1870 provision for punishing electoral officials who deprive citizens of voting rights via election fraud for exceeding Cong. power to regulate elections
- *U.S. v. Harris* (1883) appeal of federal conviction of a lynch party (led by a sheriff!) under Section 2 of the KKK Act (pertaining to conspiracies against govt or against civil rights), which the Court ruled applied only to state action, not to state inaction.
- *Civil Rights Cases* (1883) invalidated CRA of 1875 on public accommodations
- *Plessy v. Ferguson* (1896)
- *Cumming v. Richmond County Bd. of Ed.* (1899); *Gong Lum v. Rice* (1927); and other cases applied *Plessy* to uphold segregation in education
- *Williams v. Mississippi* (1898) ruled that the 1890 MS. constitution's literacy test, poll tax, and grandfather clause provisions for voting satisfied 14th Amdmt because racially neutral on their face
- *Giles v. Harris* (1903) accepted (on ostensibly technical grounds) Alabama voter qualifications even though voting registrars systematically applied them in discriminatory fashion.
- *Corrigan v. Buckley* (1926) sustaining private housing discrimination

Early pro-civil rights decisions

- *Strauder v. West Virginia* (1880) states can't exclude from juries by race (under equal protection clause)
- *Ex parte Yarbrough* (1883) upheld the Enforcement Act of 1870, enforced against private persons using violence to interfere on the basis of race with voting, as a proper exercise of the 15th Amendment enforcement clause
- *McCabe v. AT&SF* (1914): equality (under *Plessy*) requires access to facilities regardless of low demand
- *Guinn v. U.S.* (1915) struck down Oklahoma grandfather clause (under 15th Amendment), recognizing it is not really race neutral (cf. *Williams*)
- *Buchanan v. Warley* (1917) govt-mandated housing segregation violates 14th under freedom of contract ("depriv[ation] of... liberties")
- *Moore v. Dempsey* (1923) struck down conviction due to deprivation of due process rights (14th)

Plus: the Texas primary cases

The white primary is a fine case study of attempts by a state (here, Texas) to evade Court holdings by exploiting the details of their legal arguments, e.g. eliminating the primary rules from state law; converting the party to a private club. In response, it appears that the Court changed the grounds of its rulings in attempting to quash the evasions.

- *Nixon v. Herndon* (1927) struck down state-mandated white primary in Texas under 14th (not 15th!) amendment
- *Nixon v. Condon* (1932) Texas amended its statute to give primary voter-eligibility authority to the party's state executive committee. Again Nixon sued and won.
- *Grovey v. Townsend* (1935) Texas Dem convention adopted a rule that its primaries were to be whites-only. This was upheld action by a private organization not subject to state regulation or 14th Amendment
- *United States v. Classic* (1941) ruled that primaries are an essential part of election process, opening *Grovey* to reconsideration
- *Smith v. Allwright* (1944) effectively reversed *Grovey*, using *Classic* to invoke the 15th Amendment
- *Terry v. Adams* (1953) outlawed whites-only local primaries by a local political organization organizationally independent of the Democratic Party, ruling that the local association was effectively a party auxiliary and thus fell under *Allwright*.

Later civil rights case leading eventually to *Brown*

re segregation in education:

- *Murray v. Maryland* (1936) state court decision against white-only law school
- *Missouri ex rel. Gaines v. Canada* (1938): If state provides its own law school for whites, it must do so for blacks. An application of *McCabe* (1914). Often said to mark the beginning of reconsideration of Plessy.
- *Sipuel v. Bd. of Regents of Okla.* (1948) used *Gaines* to reject exclusion of a black law school applicant
- *Sweatt v. Painter* (1949) ruled out "law schools" established to minimally satisfy requirements of *Murray* and *Gaines*
- *McLaurin v. Oklahoma* (1950) ruled out "internal segregation," discriminatory treatment of admitted students established to minimally satisfy requirements of *Murray* and *Gaines*
- *Brown v. Board of Education of Topeka* (1954). Decision combined five separate cases. The Topeka case was filed and originally decided in state courts in 1951. First argued before Supreme Court early 1953; after CJ Vinson died & was replaced by Warren, which created a majority in favor of the plaintiffs, the case was reargued in late 1953. (Eventually a 9-0 decision.)