

# Thirteenth Amendment

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(1865)

## WHAT IT SAYS

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

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

## THE CONSTITUTION PROPELS THE CIVIL RIGHTS MOVEMENT

Joseph Lee Jones and his wife, Barbara Jo, were employees of the Veterans Administration. In 1966 they wanted to purchase a new home in the Paddock Woods subdivision in St. Louis County, Missouri. Paddock Woods was being developed by the Alfred H. Mayer Company, which planned to divide the land into one hundred lots and build homes on them.

The Joneses visited Paddock Woods, toured a model house, and informed the real estate agent handling the offering that they wanted to buy one of the houses. But because Mr. Jones was an African American, the agent refused to consider his purchase offer. The Joneses sued the company, charging that it had taken its actions solely on the basis of race. This violated the 1866 Civil Rights Act, which made it illegal to refuse to sell property to people because of the color of their skin. They did not seek money damages, just a court order that the real estate developer could not refuse to sell them a house.

Missouri and other southern states had passed laws that made it difficult for African Americans to buy property, and the question was whether the Fourteenth Amendment had made these laws unconstitutional. A lower court dismissed Jones's lawsuit on the grounds that there were no precedents for applying constitutional restrictions on government actions to private conduct. Nor did the federal law prohibit a private company from refusing to sell its property to African Americans. However, in *Jones v. Alfred H. Mayer*, the Supreme Court reversed this ruling. The justices pointed out that nothing in the language of the Civil Rights Act said that the federal law only applied to government actions, and that nothing in the history of the passage of the law suggested that Congress intended it to contain an exception for private property owners.

Moreover, the Supreme Court found that the Thirteenth Amendment had granted Congress the power to pass the Civil Rights Act. The amendment specifically abolished slavery and involuntary servitude and gave Congress the power to pass all laws necessary to enforce the amendment. One of the factors that separated slaves from free people was that slaves were not allowed to own property, because they themselves were considered property. The Supreme Court concluded that the Civil Rights Act was intended to remove such badges of slavery. As long as African American citizens who wanted to buy or rent a home could be turned away simply because they were not white, the Supreme Court declared they "cannot be said to enjoy the same right as is enjoyed by white citizens to purchase and lease real and personal property."

## WHAT IT MEANS

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In 1863, President Abraham Lincoln issued the Emancipation Proclamation based on his war powers. It freed the slaves held within the Southern states that were in rebellion against the United States. The proclamation did not address the issue of slaves held in the border states that remained within the Union. Following the end of the war, Congress passed a constitutional amendment to end slavery throughout the United States. Submitted to the states, it was speedily ratified.

Although the Supreme Court initially had doubts over whether the amendment covered anyone other than African Americans who had been enslaved, it later held, in the Slaughterhouse Cases (1872), that it would apply to “Mexican peonage or the Chinese coolie labor system” or any other system of forced labor. The courts have also ruled that the Thirteenth Amendment forbids “peonage,” the practice of forcing people to work to pay off their debts against their will. But the Supreme Court has rejected claims that mandatory community service, taxation, and the military draft are involuntary servitude under the Thirteenth Amendment.

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*“I do order and declare that all persons held as slaves within said designated States, and parts of States, are, and henceforward shall be free; and that the Executive government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.”*

—Abraham Lincoln, Emancipation Proclamation (1863)

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# Thirteenth Amendment

## President Lincoln issues the Emancipation Proclamation

→ 1863

During the Civil War, President Lincoln issues the Emancipation Proclamation, declaring that all persons held as slaves in areas under rebellion are free from that point forward. The proclamation does not cover areas loyal to the Union. Lincoln uses his war powers as President to issue the proclamation, but members of Congress call for a constitutional amendment.

## Congress passes the Peonage Act

→ 1867

The Peonage Act is written to enforce the Thirteenth Amendment's ban on "involuntary servitude." Under this law, no one in the United States can be forced to work against his or her will even if one person is indebted to another. In addition to physically restraining or harming someone, the use of threats to get someone to work is also illegal. This law does not apply to prisoners convicted of a crime.

## Civil Rights Act of 1875 declared unconstitutional

→ 1883

The U.S. Supreme Court strikes down the Civil Rights Act of 1875, which makes it a crime for the operators of hotels, theaters, and other public accommodations to discriminate on the basis of race. The Court holds that Congress does not have the power to enact this broad ban on the actions of a private person or business. The law cannot be justified under the Thirteenth Amendment because the amendment only bars slavery and involuntary servitude. The Court reasons that refusing to allow blacks to use hotels, restaurants, or other public accommodations is not a "badge of slavery."

## The military draft is not involuntary servitude

→ 1918

In several consolidated cases, known as *Arver v. United States*, men who have been drafted into the military during the First World War challenge the government's action as a violation of the Thirteenth Amendment. The Supreme Court finds that the Thirteenth Amendment does not protect citizens from mandatory military service in times of war.

## Striking workers can be made to return to work

→ 1949

In *UAW v. Wisconsin Employment Relations Board*, the Supreme Court decides that court orders requiring striking workers in labor disputes to return to work do not violate the Thirteenth Amendment. The Court finds that as workers have the right to quit their jobs, no involuntary servitude exists.

## Thirteenth Amendment is used to protect against racial discrimination

→ 1968

In *Jones v. Mayer*, the Supreme Court upholds an 1866 law that gives all persons regardless of race the right to buy and sell property. The Court holds that Congress as the power under the Thirteenth Amendment to prohibit private businesses from discriminating against people of color. The Court declares that the freedom that Congress is empowered to secure under the Thirteenth Amendment includes the freedom to buy whatever a white man can buy, the right to live wherever a white man can live. If Congress cannot say that being a free man means at least this much, then the Thirteenth Amendment made a promise the nation cannot keep.

# TIMELINE

## Labor contracts are not considered involuntary servitude

→ 1897 →

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.

## Laws allowing forced labor are found unconstitutional

→ 1903 →

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.

## Obligating convicts to work off fines is involuntary servitude

→ 1914 →

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

→ 1972 →

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.

## Mandatory "community service" in schools is not involuntary servitude

→ 1993 →

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.

## Bush signs national security directive against human trafficking

→ 2003 →

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.