

# Fifth Amendment TIMELINE

## Seizure of property without full hearing does not violate due process

→ 1856

The federal government seizes property from a man who owes it money. He argues that the lack of a hearing violates his Fifth Amendment right to “due process.” The Supreme Court rules in *Murray’s Lessee v. Hoboken Land and Improvement Co.* that different processes may be legitimate in different circumstances. To determine the constitutionality of a procedure the Court looks at whether it violates specific safeguards in the Constitution and whether similar types of proceedings had been used historically, particularly in England. In this case, because a summary method for the recovery of debts had been used in England, the procedure is constitutional in the United States.

## Slaves cannot be taken from their owners by federal law

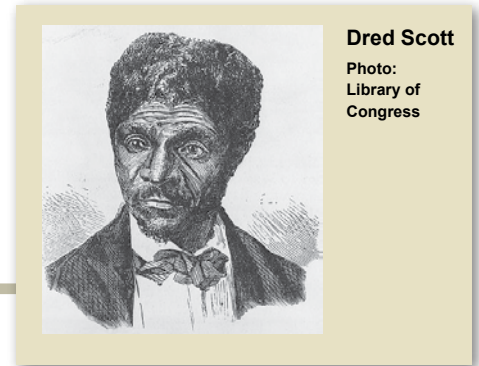
→ 1857

In *Dred Scott v. Sandford*, the Supreme Court decides that Dred Scott, who had moved with his owners to the free state of Illinois, returned to slavery when his owners moved back to Missouri, a slave state. The Court rules that slaves are property and that therefore the Missouri Compromise, which forbids slave owners from taking their property into free states violated the owners’ Fifth Amendment rights not to have private property taken from them without just compensation. The Court further declares that slaves are not citizens of the United States entitled to the protection of the Fifth Amendment.

## The government can take private property

→ 1876

In *Kohl v. United States*, the U.S. Supreme Court upholds the federal government’s right to take land in Cincinnati, Ohio, to build a post office. The government’s ability to exercise the power of eminent domain contained in the Fifth Amendment is ruled essential to the government’s ability to fulfill its duties to the public. This important goal outweighs any inconvenience to individuals living on the land.



## Conviction in both federal and state court is not double jeopardy

→ 1922

A defendant who had been convicted in state court objects to having to stand trial in federal court for the same crime. In *United States v. Lanza*, the U.S. Supreme Court rules that the double jeopardy clause was not violated because the state and federal legal systems are different government “units,” and that each can determine what shall be an offense against its peace and dignity.

## Due process requires a hearing before someone is deported

→ 1922

In *Ng Fung Ho v. White*, the U.S. Supreme Court rules that the Fifth Amendment due process clause requires the government to hold a hearing before deporting a U.S. resident who claims to be a citizen, arguing that otherwise the person is deprived of liberty, and possibly in danger of losing property and life.



## The right against self-incrimination applies in some civil cases

→ 1924

The U.S. Supreme Court considers the question of whether a debtor who testifies at his own bankruptcy hearing is allowed to refuse to answer questions that might incriminate him. In *McCarthy v. Arndstein*, the Supreme Court holds that the Fifth Amendment privilege against self-incrimination applies to defendants in civil cases, not just criminal cases, if criminal prosecution might result from the disclosure.

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## Curfew regulations do not violate due process rights

1943

In the wake of Japan's attack on Pearl Harbor, Congress passes a law requiring Japanese Americans to live in restricted areas and obey curfews. In the case of *Hirabayashi v. United States*, the U.S. Supreme Court rules that this is not a violation of the Japanese Americans' Fifth Amendment right to due process, as they may have divided loyalties during wartime and their segregation is necessary to protect national security.



Japanese Americans being evacuated from West Coast areas

Photo: Library of Congress

## Organizations do not have the right against self-incrimination

1944

In *United States v. White*, the U.S. Supreme Court rules that a labor union under criminal investigation cannot refuse to turn over its records on the grounds of self-incrimination, explaining that the Bill of Rights was enacted to protect individuals, not organizations, from government control.

## A suspect has the right to remain silent

1966

In *Miranda v. Arizona*, the U.S. Supreme Court rules that the right against self-incrimination is not limited to in-court testimony, but also applies when a suspect is taken into police custody for questioning. Before any questioning can begin, police must explain that the suspect has the right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The court refuses to accept as evidence any statements made after the right to remain silent has been invoked. These mandatory statements by police are known as Miranda rights and the process of informing is known as Mirandizing.



Border Patrol agent reads the Miranda rights to a Mexican national arrested for transporting drugs.

Photo: Wikimedia Commons

## Double jeopardy applies to state trials

1969

At first the Bill of Rights was seen as a limitation on the federal government's powers, not on the state government. In *Benton v. Maryland*, the U.S. Supreme Court rules that the double jeopardy clause represents a fundamental ideal of "our constitutional heritage," and extends double jeopardy protection to defendants in state court trials. The justices also cite the Fourteenth Amendment's prohibition on state governments limiting liberty without due process. Double jeopardy, they rule, violates the due process rights of the accused.

## Prior notice and a hearing are required

1993

Four years after police found drugs and drug paraphernalia in a man's home and he pleaded guilty to drug offenses under Hawaiian law, the federal government files a request to take his house and land because it had been used to commit a federal drug offense. Following an ex parte proceeding (in which only the prosecution participates), a judge authorizes the property's seizure without prior notice to the individual. The Supreme Court, in *United States v. James Daniel Good Real Property*, rules that the property owner was entitled to advance notice and a full hearing before the government could take his home and land.

## A death sentence imposed after retrial is not double jeopardy

2003

A defendant is convicted of first-degree murder, but the jury cannot reach a unanimous decision whether to sentence the defendant to death or to life in prison. By default, a life sentence is imposed. The defendant appeals his conviction and wins a retrial, but at the second trial the jury unanimously hands down a death sentence. In *Sattazahn v. Pennsylvania*, the U.S. Supreme Court rules that this second verdict does not violate the double jeopardy clause because the first jury's inability to reach a unanimous verdict means that there was no official finding of the facts regarding what kind of penalty the defendant deserved. As these questions remain open at the time of the second trial, the second jury can look at the facts again.