Strauder v. West Virginia

The 1880 U.S. Supreme Court decision in *Strauder v. West Virginia* looked to the equal protection clause of the Fourteenth Amendment to invalidate a West Virginia policy excluding individuals from serving on juries because of their race. The policy was carried out in a statute limiting jury service to "all white male persons." The case was argued before the Supreme Court on October 21, 1879. It was decided on March 1, 1880. The decision struck down jury exclusion practices common among southern states, which sought to empanel white-only juries despite the provisions of the Civil Rights Act of 1875 that made it a crime to violate the principle that all citizens had a right to serve on both state and federal juries.

The case began when the plaintiff (or defendant, in the initial action in state court) was indicted for first-degree murder in Ohio County, West Virginia, in 1874. The plaintiff was an African American man named Taylor Strauder. Convicted at trial by an all-white jury and sentenced by a white judge, Strauder petitioned to the Supreme Court of Appeals of West Virginia, which affirmed the trial court's decision. Strauder was scheduled to die by hanging.

The case came before the U.S. Supreme Court on a writ of error alleging that West Virginia had denied the plaintiff the rights entitled to him under the Constitution. Because he was not granted a fair trial, the plaintiff had standing to bring his claim alleging a constitutional violation under the due process and equal protection clauses.

Changing the Makeup of Juries

Justice William Strong, a former Republican in the U.S. House of Representatives, a former abolitionist, and an appointee of President Ulysses S. Grant, delivered the opinion of the court. His opinion focused on equal protection rather than on due process. Strong exposed the hypocrisy of a system whereby whites were entitled to juries made up of all whites, while blacks, forced to stand trial before all-white juries, did not enjoy the same entitlement. Strong concluded that the statutory scheme discriminated against blacks and recalled the badges and incidents of slavery. The statutory scheme asserted the inferiority of blacks and generated racial prejudice and therefore could not stand. The statutory scheme was ruled unconstitutional because all U.S. citizens, regardless of their race, were deemed to have constitutional rights to criminal trials before juries selected and impaneled in nondiscriminatory ways.

The *Strauder* case represents one of the most prominent antidiscrimination holdings after the Emancipation Proclamation was issued and before the civil rights movement began roughly a century later. The court, liberally construing the Fourteenth Amendment to keep with the putative purposes of the amendment's framers, held that the amendment granted citizenship and the privileges of citizenship to people of color; therefore, states had to ensure the equal protection of the laws to people of color. The West Virginia statute did not ensure the equal protection of the laws to people of color because it denied such individuals the right to serve on juries.

The court also held that Congress, even without an express delegation of power, could protect a right or immunity whether it was created or only guaranteed by the Constitution. According to the court, the Fourteenth Amendment conferred a right or immunity to "the colored race" because it was designed to protect "colored races" when states denied them any rights enjoyed by whites.

The court did not eliminate all forms of discrimination—only discrimination based on race. For instance, the court decision left room for discrimination against nonlandowners. That the decision invalidated exclusion policies based on race did not mean that later attorneys could not impanel all-white juries. Nevertheless, the decision went great lengths toward establishing equal rights for black citizens.

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See Also: Race, Class, and Criminal Law; Racism; Supreme Court, U.S.

Further Readings

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Strikes

A strike occurs when people simultaneously refuse to work and try to encourage everyone in a workplace to stop working there. Strikes tend to be organized by labor unions, since they provide the social solidarity necessary to persuade people to take action that may be dangerous and certainly expensive for them. Strikers are not paid and unless their union can provide funds, the strike will soon be ended by lack of money and the pressure of feeding a family. It is easier, therefore, for younger and single individuals to mount a strike than older workers who have more personal responsibilities.

Strikes are most commonly organized in response to workplace grievances, including but not limited to desire for higher wages. Other reasons for strikes include concern over health and safety issues, reduction in the number of hours worked, better working conditions, concern over the strategy being pursued by the organization or in support of a political dispute not directly related to the employees at all (this may take the form of a sympathy strike in solidarity with workers elsewhere in the same or a different industry). Historically, one of the goals of the labor movement was to achieve the ability to organize a general strike, in which all workers would strike simultaneously, and the state would be forced to yield to the demands being made. However, antipathy to labor unions in the United States has meant that the level of unionization has always been low by international standards, particularly in the private sector, and that means strikers have been more isolated and hence vulnerable to the force customarily used against them.

A case in which, perhaps as a result of a la dispute, the owners of a workplace refuse to all workers onto the premises, is known as a lo out. The opposite occurs when workers occu a workplace to prevent work taking place or prevent new employees (sometimes referred to "scab" workers) to replace the strikers. This known as a sit-in or workers' occupation.

As labor unions became recognized in Americ law, restrictions were placed on how and wh strikes may be conducted. Generally, an offic strike can only be called after a ballot has bee held and a majority for strike action reached, well as other restrictions. Strikes that take pla without official union sanction are called wilde strikes and may follow a spontaneous walkout response to a new event, which may subsequentl become an official strike.

Labor Strikes

Strikes have taken place in the United State almost since settlements were established. Th first recorded strike was by Polish crafts worke in 1619 in Jamestown, Virginia. Since then, th number of strikes has waxed and waned in lin with overall economic conditions (reaching a pea of more than 4,300 in 1937) and changing in th nature of workers represented. Early strikes tended to affect a comparatively small group of workers usually skilled, of common ethnicity, and work ing in close proximity with each other. Just lik the Polish crafts workers, they would have been recruited to the New World because they had eco nomically valuable skills that could be transferred to the new economy. However, once relocated, they found in some cases that the terms and condi tions of their work were not acceptable, and their personal liberties and rights were constrained in comparison with other people. They called strikes, then, purely for their own benefit and that of their families but had little if any solidarity with any other group of workers. Strikes in these early peri ods were restricted to those areas that had been settled by Europeans and in the various occupa tions that were then important to the economy: indentured service, fishing, transportation, and so forth. As the geographical scope of the colo nies broadened and the economy became more sophisticated, strikes broke out in different areas and sectors. In the 18th century, for example, they