



Civil Rights in the Shadow of Slavery: The Constitution, Common Law, and the Civil Rights Act of 1866

George A. Rutherglen

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The 1866 Civil Rights Act is one of the most monumental pieces of legislation in American history, figuring into almost every subsequent piece of legislation dealing with civil rights for the next century. While numerous scholars have looked at it in the larger social and political context of Reconstruction and its relationship with the Fourteenth Amendment, this will be the first book that focuses on its central role in the long history of civil rights. As George Rutherglen argues, the Act has structured debates and controversies about civil rights up to the present. The history of the Act itself speaks to the fundamental issues that continue to surround civil rights law: the contested meaning of racial equality; the distinction between public and private action; the division of power between the states and the federal government; and the role of the Supreme Court and Congress in implementing constitutional principles. *Slavery, Freedom, and Civil Rights* shows that the Act was not just an archetypal piece of Radical Republican legislation or merely a precursor to the Fourteenth Amendment. While its enactment led directly to passage of the amendment, their simultaneous existence going forward initiated a longstanding debate over the relationship between the two, and by proxy the Courts and Congress. How extensive was the Act's reach in relation to the Amendment? Could it regulate private discrimination? Supersede state law? What power did it endow to Congress, as opposed to the Courts? The debate spawned an important body of judicial doctrine dealing with almost all of the major issues in civil rights, and this book positions both the Act and its legacy in a broad historical canvas.

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