Background Into Meeting At Seneca Falls in 1848

State of Women in 1848

- Economic — removal of economic production in the house, workers in factories
- Political — 1807 ends women’s right to vote in NJ. Why?
- Petition served as political vehicle for women.
- 1837-38 130,000 petitions by abolitionists
- not heard because of 1836 “gag rule”
State of Women in 1848

- Education—limits and opportunities placed on women by “republican mother”
  Oberlin Founded in 1833, but baccalaureate degree for women in 1837

Legal Rights—“one-flesh” doctrine, marital unity, feme covert, coverture, feme sole
Equity law for women codification movement and MWP Act of 1848
Religious Transformation—2nd Great Awakening—
Reasons for its beginnings in Northeast
Separate Spheres Ideology

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Other Changes Occurring

Religion and Reform: Second Great Awakening

Reform Movements

A) Temperance
B) Anti-Slavery
C) Public Women

Burnt over District, American Temperance Society, American Colonization Society, Abolitionism, William Lloyd Garrison, Elizabeth Cady Stanton, Seneca Falls Declaration of Sentiments
Early 19th Century American Religious and Cultural Movements: Theological Changes

- Calvinism & Enlightenment critiqued
- Individual Responsibility—knowledge of right and wrong
- Inner Light—Feelings—move away from rational
- Moral Responsibility to self and community
Burned Over District

The Genesee Country (about 1830)

New York
American Colonization Society

- American Colonization Society—formed in 1816 by Charles Fenton Mercer of VA and Robert Finley of NJ.
- Members included Henry Clay, James Monroe, Francis Scott Key, United abolitionists and some southerners.
Shift from Colonization to Abolition

1830
Garrison begins *The Liberator*
after breaking with the American Colonization Society
Shift from Colonization to Abolition

- I will be harsh as truth and as uncompromising as justice . . . I am in earnest
- I will not equivocate—I will not excuse—I will not retreat a single inch—and
- I will be heard.”
Early 19th Century American Religious and Cultural Movements

- Debate and Fight Over Political Engagement vs. Moral Suasion

- Garrison and followers supported equality of all—no political action
Early 19th Century American Religious and Cultural Movements

- Garrison was also anti-union with southern states
- Wanted the Union dissolved
- Constitution and Bible heavily condemned.
Early 19th Century American Religious and Cultural Movements

1840 split over women as delegates, speakers and the question of political engagement.

**Rivals formed American Foreign and Antislavery Society.**
“The investigation into the rights of the slave has led me to a better understanding of my own.”
Changes in Antislavery Movement

The Impact of the Grimke sisters and the role of Abby Kelly Foster challenged the notion that public space was only for men. Speaking in front of “promiscuous” audience (mixed). Grimkes provided first-hand knowledge of slavery’s cruelty. Conservative churches condemned them as unnatural—Brookfield Pastoral Letter 1837.
The Rise of Women’s Rights and the Abolitionist Movement.

Grimke sisters, Mott and Stanton, Lucy Stone, etc.

Susan B. Anthony entered later, via the Temperance Movement.
1840 World Antislavery Convention

ECS meets Garrison and Mott
Legal and Constitutional Questions: Slavery and Personal Status

Scott v. Sandford, Part I
(Taney opinion)
In 1846 Scott brought a freedom suit in Missouri state court.

Under Article III of the Constitution, federal courts have jurisdiction over claims brought based on state law, when one party is a citizen of one state and the other party is a citizen of the other. This is diversity jurisdiction.

In 1857 the US Supreme Court declared Scott and his family remained slaves.
Scott v. Sandford, US Supreme Court

- Taney’s majority opinion rested on two rulings:
  - No black, free or enslaved, could be a citizen of the United States,
  - Congress could not regulate slavery in the territories, and in particular could not deprive slave owners of their property in slaves (because of the Fifth Amendment to the Constitution)
Citizenship issue

According to Taney, even free Blacks were “not included, and were not intended to be included, under the word ‘citizens’ in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States…”
The Reconstruction Amendments

AMENDMENT XIII

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.

Passed by Congress January 31, 1865. Ratified December 6, 1865.
The Reconstruction Amendments

- AMENDMENT XIV
- Section 1.
  All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
AMENDMENT XIV

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.
AMENDMENT XIV

The Problem with Kansas and New York—Universal Suffrage versus suffrage for African American men.
Reconstruction Amendments & their Implementation

- Constitutional History of the Reconstruction Amendments and Women’s Movement 1868 & 1869 AERA Meetings
Slaughterhouse Cases

- **Slaughterhouse Cases of 1872**--The Case involved a group of butchers suing the state of Louisiana for its establishment of a monopoly in the butcher industry--specifically Louisiana required that a designated company would have control over specified areas where slaughterhouses could exist. The company was responsible for the proper disposal of all carcasses and other wastes and could charge a fee for any independent butcher to use their facility.
The Court first claimed that in dealing with the equal protection of the law and due process clauses that these strictly applied to the freedmen.

This left the privileges and immunities clause. Writing for a divided court Justice Samuel Miller contended that the privileges and immunities clause certainly was not designed to protect a United States citizen from the legislative power of his own state. This was quickly applied to women’s rights and African-American rights.
Women--Bradwell v. Illinois (1872) - In applying the Slaughterhouse narrow interpretation of the 14th Amendment to women, the Court struck down a woman’s right to practice law in the State of Illinois. Using The Slaughterhouse cases as precedent, the Ct. determined that the state had the regulatory authority to determine the criteria for issuing licenses.
The Court and Women’s Rights

- Justice Joseph Bradley’s concurring opinion, (dissented from the Court in the *Slaughterhouse* case). According to Bradley, he agreed on the Court’s decision in Bradwell but solely because Myra Bradwell was a woman.

- *Addressed feme covert*—'It has become a maxim of that system of jurisprudence that a woman has no legal existence separate from her husband, he was regarded as her head and representative in the social state.” Addressed unmarried women by stating that the “paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother.”
The Court and Women’s Rights

- Voting Issues for Women
- She had argued that the 14th Amendment had acknowledged her as a citizen of the United States and New York’s Constitution was silent on sex as a voting requirement.
The Court and Women’s Rights

- Voting Issues for Women

- *United States v. Susan B. Anthony* (1872)—

  Anthony also argued that the 15th Amendment also upheld her right to vote. She claimed all womanhood was in a state of servitude because they have no claim to their legal, economic, political, and personal matters. Judge Ward Hunt adamantly refused to acknowledge any of Anthony’s claims and instructed the jury to return a verdict of guilty based on the argument that neither the 14th or 15th amendments guaranteed her the right to vote.
The Court and Women’s Rights

- **Minor v Happersett** (1875) -- The Court in this case focused mostly on the question of whether the right to vote was a fundamental right of a citizen guaranteed by the 15th Amendment—

- SCOTUS determined that it was not a fundamental right.
The Court and the Rights of African-Americans

- **United States v. Cruikshank (1876)**--This case involved a group of Louisiana whites who were prosecuted under the 1870 Enforcement Act for attacking a meeting of blacks and conspiring to deprive them of their civil rights.

- The Supreme Court ruled that the 14th Amendment did not allow for the federal government to protect citizens from other citizens--it applied only to states.

- **United States v. Reese (1876)**--The Supreme Court, reflecting its Minor decision, ruled that the 15th Amendment did not guarantee the right to vote--it only provided protection for certain classes. This opened the door for many other disenfranchising tools and the erosion of the Reconstruction Amendments.
The Court and the Rights of African-Americans

- *Civil Rights Cases (1883)*--The Supreme Court reaffirmed that the 14th amendment only applied to prohibiting states from discrimination--did not apply to private industry. (R.R, restaurants, etc.)
Civil Rights Cases, 109 U.S. 3 (1883)

Supreme Court held:
- Neither 13th or 14th Amendment authorized the passage of the Civil Rights Act of 1875
  - 13th Amendment only outlawed slavery,
  - 14th Amendment only applied to state action, and therefore could not justify a law that tried to regulate private individuals.
- Court suggested these were more properly state issues, handled under the police powers.
- But there was also an issue of rights
  - Who was entitled to them, and
  - What their role was
The Court and the Rights of African-Americans

- **Facts of the case:**
  - In 1890, Louisiana passed a law requiring separate railcars for blacks and whites (*de jure segregation*).

- **A challenge to that law went up the Supreme Court**

- **Majority of the Supreme Court held:**
  - Law did not violate the Constitution
    - No violation of the 13th Amendment—only outlawed slavery.
    - No violation of the 14th Amendment
The Court and the Rights of African-Americans

- *Plessy v. Ferguson (1896)*--The Supreme Court ruled that separate accommodations did not deprive blacks of their equal protection under the Fourteenth Amendment. The Supreme Court argued that a state has the power to separate the races, if it believes it is in the best interest of the public. This power is found in the state’s police powers.