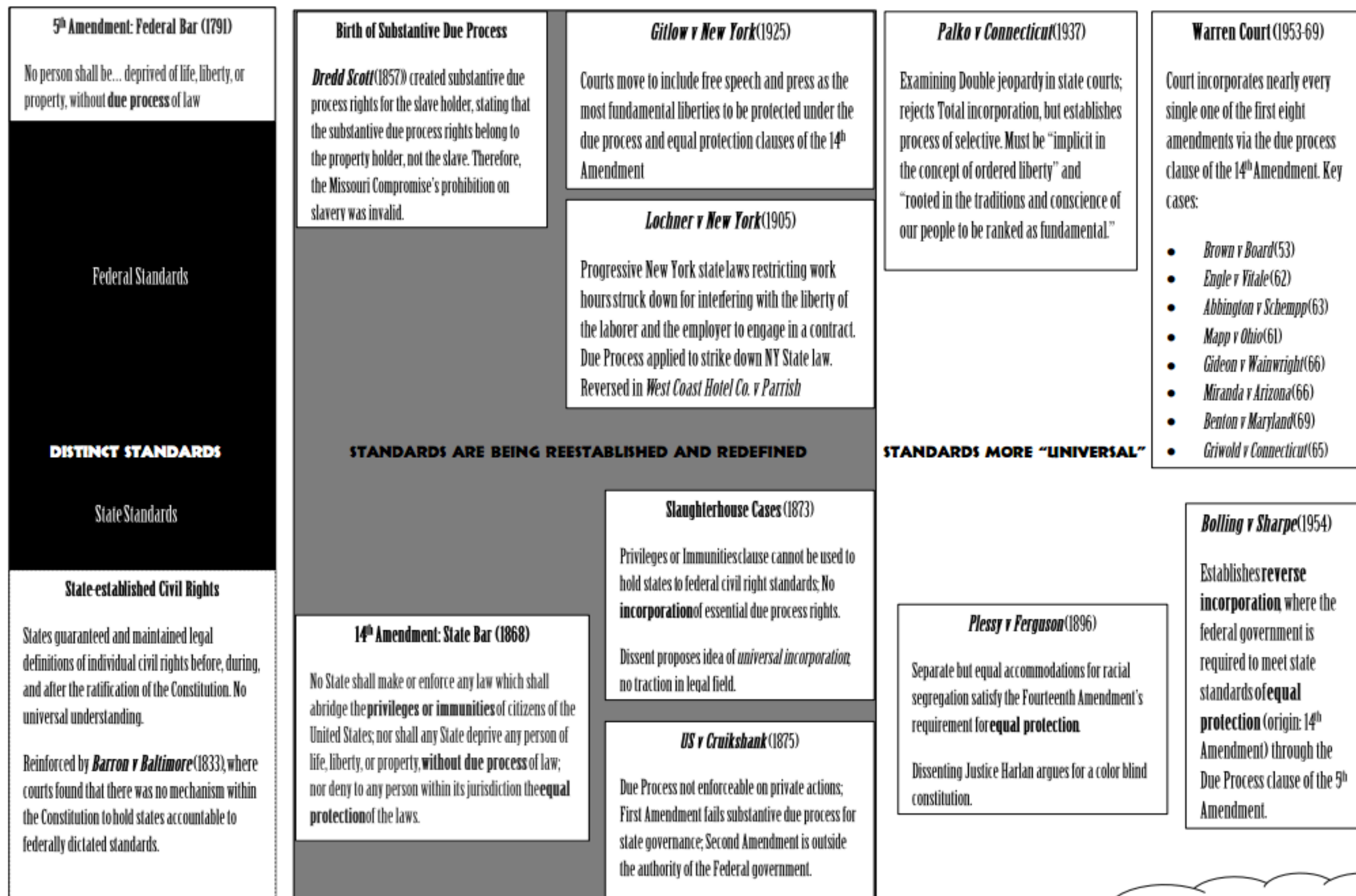


# A GUIDE TO THE INCORPORATION DOCTRINE



## Substantive Due Process v Procedural Due Process

Remember, our essential liberties (life, liberty, property) can be taken away from us provided the government goes through due process beforehand.

**Substantive:** a right against the imposition of *certain kinds* of policies on us under any circumstances; in a way evaluate the *intent* of the law (using Strict Scrutiny test)  
**VS Procedural** one that requires gov to enforce its policies in a way that ensures we are fairly treated under the rules; in a way, evaluate the *effect* of the law (using Rational Basis test)

What's the rub? These essential rights are open to subjective interpretation by judges.