



Written by [Selwyn Duke](#) on June 25, 2018

Restaurant Risibility: Sarah Sanders, and Justice, Won't Be Served in America

We don't know if White House Press Secretary Sarah Sanders feels hen-pecked, but she certainly was rejected by Virginia's Red Hen restaurant. The Lexington establishment threw her out Friday night because of her association with the Trump administration. Perhaps it's "No shoes, no shirt, no insane leftism, no service."

Some may wonder, as a woman close to me did, if Sanders can sue. Alas, no, and this raises a serious issue: Do Americans ever ponder how we have "protected classes" and, therefore, "unprotected classes" in today's equality-über-alles United States? Do they consider this just? And how is this

allowable under the 14th Amendment, which guarantees equal treatment under the law?

Relating the ostensible reason for the ejection, The Red Hen's owner "sanctimoniously declared the establishment has to uphold 'certain standards,'" [reported](#) Fox News. It's a move the restaurants' staff apparently knew would generate great media attention, and, cheered by leftists coast to coast, it no doubt will buttress their business for a time. (Video on story below.)

But this can also be a great teaching moment. The *Washington Post* [asks](#) in a title, "Did the Red Hen violate Sarah Huckabee Sanders's rights when it kicked her out?" The problem, however, is indicated by the question. How can there be an inherent right to a private citizen's services?

The *Post* perfectly explains the matter's legality. In a nutshell, if you're not part of a "protected class," anyone can throw you out on your keister anytime he wants. Such groups are defined by qualities such as race, ethnicity, sex, national origin, "sexual orientation," "gender identity," and religion. Political affiliation is protected in only a small minority of localities, and Lexington isn't one of them.

It's ironic that there are protected and unprotected classes in a land founded, in part, on rebellion against an Old World class system. Yet this is an inevitable result of the government getting into the discrimination business. Why didn't I write "anti-discrimination" business? Because a blanket prohibition against discrimination is unrealistic.

It would mean you couldn't eject from your business a jerk, a harasser, or someone wearing just a thong bikini or who smelled up the whole place for want of a bath. So the government doesn't eliminate discrimination — it just discriminates among types of discrimination. Thus, instead of ending discrimination, the power to do so has largely been transferred from the owners of business to what can now only be described as the owners of us: the state.

Question: How is having the odd businessman discriminate unjustly — based on race, let's say — more





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unpalatable than having the government create a whole class system of the protected and unprotected? And how can this be even remotely constitutional under the 14th Amendment, which [deems](#) that no state shall “deny to any person within its jurisdiction the equal protection of the laws”?

Nonetheless, a long time ago judges declared private establishments “public accommodations,” in a socialist-like blow to the principle of private property. Ironically, these usurpative jurists claimed there was a constitutional right to service at a private establishment, while ignoring what many regard as an actual right: freedom of association.

Professor Walter E. Williams [addressed](#) this matter in 2002. Using the examples of past laws against interracial marriages and even a Baltimore prohibition forbidding whites and blacks from playing tennis together in public parks, he asks: Would we find it more acceptable if the government mandated interracial marriages and recreation?

While Americans would bristle at such coercive violation of freedom of association, Williams points out that they change their tune when the question is creating entities such as all-white, all-black, or all-male establishments. Yet their main argument in opposition is that it’s “illegal employment discrimination.”

Legality doesn’t equal morality, however. And as Williams puts it, “The bottom line is that the true test of one’s commitment to freedom of association doesn’t come when he allows people to associate in ways he approves. The true test of that commitment comes when he allows people to be free to voluntarily associate in ways he deems despicable. Forced association is not freedom of association.” (Video below of Williams discussing the issue.)

Then there’s my patent argument. As I [wrote](#) in April, “No one would deny you the right to include in or exclude from your home whomever you please,” whether your decision is based on a person being white, black, male, female, fat, skinny, cute, ugly, or a coffee drinker. “So why should you lose that right simply because you decide to sell clothing, food, cakes, or wedding services out of it?” I continued. “It’s still your property, paid for with your money and created by the sweat of your own brow. Is it American to say, ‘You can have your freedom (of association) — but not if you want to make a living’?”

Moreover, how does anti-discrimination law make sense from a practical standpoint? As I also wrote:

A Japanese-descent young lady I knew well once related to me that, upon entering a Korean restaurant, she was told “We don’t want your kind in here.” She wisely left. After all, why would you want people hostile to you making your food or putting their hands in the dough for your cake? Isn’t it better if they can express their distaste for you so you can make a fully informed decision about patronizing them? I’d rather not give my money to those who hate me, anyway.

Instead, with people unable to reject us, we can have the benefit of them expressing their hostility by spitting in our food. Great tradeoff.

We’d be better off if we got the government out of the discrimination business and followed the lead of late senator and presidential nominee Barry Goldwater (R-Ariz). After being denied entry to a golf club because of his background — he had one Jewish parent — he replied, “Can I at least play nine holes?”

As for holes, trading a lot of litigation for a little humor is far better than digging ours deeper, as judges increasingly play God when deciding how the subjects may run their own businesses.

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