



'THE CIVIL RIGHTS CASES.'  
UNITED STATES

v.

STANLEY. [On a Certificate of Division in  
Opinion between the Judges of the  
Circuit Court of the United States for the District of  
Kansas.]  
UNITED STATES

v.

RYAN. [In Error to the Circuit Court of the United  
States for the District of  
California.]  
UNITED STATES

v.

NICHOLS. [On a Certificate of Division in  
Opinion between the Judges of the  
Circuit Court of the United States for the Western  
District of Missouri.]  
UNITED STATES

v.

SINGLETON. [On a Certificate of Division in  
Opinion between the Judges of the  
Circuit Court of the United States for the Southern  
District of New York.]  
ROBINSON and wife

v.

MEMPHIS & CHARLESTON R. CO. [In Error to  
the Circuit Court of the United States  
for the Western District of Tennessee.]

October 15, 1883.

ADLEY, J.

4 These cases are all founded on the first and second sections of the act of congress known as the Civil Rights Act, passed March 1, 1875, entitled An act to protect all citizens in their civil and legal rights, 18 St. 335. Two of the cases, those against Stanley and Nichols, are indictments for denying to persons of color the accommodations and privileges of an inn or hotel; two of them, those against Ryan and Singleton, are, one an information, the other an indictment, for denying to individuals the privileges and accommodations of a theater, the information against Ryan being for refusing a colored person a seat in the dress circle of Maguire's theater in San Francisco; and the indictment against Singleton being for denying to another person, whose color is not stated, the full enjoyment of the accommodations of the theater known as the Grand Opera House in New York, said denial not being made for any reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude. The case of Robinson and wife against the Memphis & Charleston Railroad Company was an action brought in the circuit court of the United States for the western district of Tennessee, to recover the penalty of \$500 \*5 given by the second section of the act; and the gravamen was the refusal by the conductor of the railroad company to allow the wife

to ride in the ladies' car, for the reason, as stated in one of the counts, that she was a person of African descent. The jury rendered a verdict for the defendants in this case upon the merits under a charge of the court, to which a bill of exceptions was taken by the plaintiffs. The case was tried on the assumption by both parties of the validity of the act of congress; and the principal point made by the exceptions was that the judge allowed evidence to go to the jury tending to show that the conductor had reason to suspect that the plaintiff, the wife, was an improper person, because she was in company with a young man whom he supposed to be a white man, and on that account inferred that there was some improper connection between them; and the judge charged the jury, in substance, that if this was the conductor's bona fide reason for excluding the woman from the car, they might take it into consideration on the question of the liability of the company. The case is brought here by writ of error at the suit of the plaintiffs. The cases of Stanley, Nichols, and Singleton come up on certificates of division of opinion between the judges below as to the constitutionality of the first and second sections of the act referred to; and the case of Ryan, on a writ of error to the judgment of the circuit court for the district of California sustaining a demurrer to the information.

\*\*20 \*8 It is obvious that the primary and important question in all \*9 the cases is the constitutionality of the law; for if the law is unconstitutional none of the prosecutions can stand.

The sections of the law referred to provide as follows:

'Section 1. That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

'Sec. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations,

enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of \$500 to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall, also, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$500 nor more than \$1,000, or shall be imprisoned not less than 30 days nor more than one year: Provided, that all persons may elect to sue for the penalty aforesaid, or to proceed under their rights at common law and by state statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this provision shall not apply to criminal proceedings, either under this act or the criminal law of any state: And provided, further, that a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively.'

Are these sections constitutional? The first section, which is the principal one, cannot be fairly understood without attending to the last clause, which qualifies the preceding part. The essence of the law is, not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, \*10 PUBLIC CONVEYANCES, AND THEATERS; BUT That such enjoyment shall not be subject to any conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. In other words, it is the purpose of the law to declare that, in the enjoyment of the accommodations and privileges of inns, public conveyances, theaters, and other places of public amusement, no distinction shall be made between citizens of different race or color, or between those who have, and those who have not, been slaves. Its effect is to declare that in all inns, public conveyances, and places of amusement, colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances, and places of amusement, as are enjoyed by white citizens; and *vice versa*. The second section makes it a penal offense in any person to deny to any citizen of any race or color, regardless of previous servitude, any of the accommodations or privileges mentioned in the first

Has congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the \*\*21 constitution before the adoption of the last three amendments. The power is sought, first, in the fourteenth amendment, and the views and arguments of distinguished senators, advanced while the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this court; and we are bound to exercise it according to the best lights we have.

Now, conceding, for the sake of the argument, that the admission to an inn, a public conveyance, or a place of public amusement, on equal terms with all other citizens, is the right of every man and all classes of men, is it any more than one of those rights which the states by the fourteenth amendment are forbidden to deny to any person? and is the constitution violated until the denial of the right has

some state sanction or authority? Can the act of a mere individual, the owner of the inn, the public conveyance, or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury, properly cognizable by the laws of the state, and presumably subject to redress by those laws until the contrary appears?

After giving to these questions all the consideration which their importance demands, we are forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude, and that if it is violative of any right of the party, his redress is to be sought under the laws of the state; or, if those laws are adverse to his rights and do not protect him, his remedy will be found in the corrective legislation which congress has adopted, or may adopt, for counteracting the effect of state laws, or state action, prohibited by the fourteenth amendment. It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in \*25 other matters of intercourse or business. Innkeepers and public carriers, by the laws of all the states, so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws themselves make any unjust discrimination, amenable to the prohibitions of the fourteenth amendment, congress has full power to afford a remedy under that amendment and in accordance with it.

separable concomitants of that state, there must be the same stage in the progress of his elevation when he leaves the rank of a mere citizen, and ceases to be the favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary manner by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty, and property the same as white citizens; yet no one, at least I thought that it was any invasion of their personal *status* as freemen because they were not

admitted to all the privileges enjoyed by white citizens, or because they were subjected to discriminations in the enjoyment of accommodations in inns, public conveyances, and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery. If, since that time, the enjoyment of equal rights in all these respects has become established by constitutional enactment, it is not by force of the thirteenth amendment, (which merely abolishes slavery,) but by force of the fourteenth and fifteenth amendments.

On the whole, we are of opinion that no countenance of authority for the passage of the law in question can be found in either the thirteenth or fourteenth amendment of the constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several states is concerned.

