

Transcribed Excerpts from U.S Supreme Court: Civil Rights Cases, 1883

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... The sections of the law referred to provide as follows:

"SEC. 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, theatres, 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 ...

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The first section of the Fourteenth Amendment (which is the one relied on), after declaring who shall be citizens of the United States, and of the several States, is prohibitory in its character, and prohibitory upon the States. It declares that:

"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."

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws ...

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... And so, in the present case, until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the Fourteenth Amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority ...

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... adopt or enforce ...

An inspection of the law shows that it makes no reference whatever to any supposed or apprehended violation of the Fourteenth Amendment on the part of the States ... It does not profess to be corrective of any constitutional wrong committed by the States; it does not make its operation to depend upon any such wrong committed ... it steps into the domain of local jurisprudence, and lays down rules for the conduct of individuals in society towards each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities ...

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But the power of Congress to adopt direct and primary, as distinguished from corrective, legislation on the subject in hand is sought, in the second place, from the Thirteenth Amendment, which abolishes slavery. This amendment declares "that 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," and it gives Congress power to enforce the amendment by appropriate legislation ...

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The only question under the present head, therefore, is whether the refusal to any persons of the accommodations of an inn or a public conveyance or a place of public amusement by an individual, and without any sanction or support from any State law or regulation, does inflict upon such persons any manner of servitude or form of slavery as those terms are understood in this country ...

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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 ...

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 ...

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When a man has emerged from slavery, and, by the aid of beneficent legislation, has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected ...