The Civil Rights Cases

Facts

This was a conglomeration of 5 cases where private citizens, African Americans, sued under the 1875 Civil Rights Act to vindicate their right to access what we now call public accommodations.

Two cases involved denying Blacks accommodations like service in a restaurant or inn.

Two of the cases involved denying admission to a theatre;

One case was for refusing a seat in the dress circle of Maguire's Theater in San Francisco. Another was for denying admission to the Grand Opera House in New York. The fifth case involved a couple who had brought action against the Memphis and Charleston Railroad Company in Tennessee. A conductor on the line had refused to allow the woman access to the ladies' car because she was of African descent, and traveling with a party the conductor assumed was white. As a consequence, he assumed she was of “loose morals” and denied her access to the ladies' car.

Procedural History: The first four cases were filed by the solicitor general on November 7, 1882; the fifth case was brought by Rich the husband in he train incident on 29 March 1883. Some lower Courts upheld the 1875 Act and some did not. .

Issue: Could Congress through the 1875 Civil Rights Act

outlaw cases of so called “private discrimination”?

Held: No. To apply the 13th and 14th Amendments you need state action. Also no Congressional power to regulate under the interstate commerce clause.

Judgment Reversed and Affirmed, depending on the lower Court holding. (Some cases had upheld the rights to sue and some had not. )

Justice Bradley

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. 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 that time, 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.

Justice Harlan’s response:

My brethren say that when a man has emerged from slavery, and by the aid of beneficient 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. It is, I submit, scarcely just to say that the colored race has been the special favorite of the laws. What the nation, through congress, has sought to accomplish in reference to that race is, what had already been done in every state in the Union for the white race, to secure and protect rights belonging to them as freemen and citizens; nothing more. The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel a recognition of their legal right to take that rank, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained. [109 U.S. 3, 62] At every step in this direction the nation has been confronted with class tyranny, which a contemporary English historian says is, of all tyrannies, the most intolerable, 'for it is ubiquitous in its operation, and weighs, perhaps, most heavily on those whose obscurity or distance would withdraw them from the notice of a single despot.' To-day it is the colored race which is denied, by corporations and individuals wielding public authority, rights fundamental in their freedom and citizenship. At some future time it may be some other race that will fall under the ban. If the constitutional amendments be enforced, according to the intent with which, as I conceive, they were adopted, there cannot be, in this republic, any class of human beings in practical subjection to another class, with power in the latter to dole out to the former just such privileges as they may choose to grant. The supreme law of the land has decreed that no authority shall be exercised in this country upon the basis of discrimination, in respect of civil rights, against freemen and citizens because of their race, color, or previous condition of servitude. To that decree-for the due enforcement of which, by appropriate legislation, congress has been invested with express power-every one must bow, whatever may have been, or whatever now are, his individual views as to the wisdom or policy, either of the recent changes in the fundamental law, or of the legislation which has been enacted to give them effect.