GEORGIA'S REACTION TO THE CIVIL RIGHTS ACT OF 1875 AND THE CIVIL RIGHTS CASES of 1883

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CAROLYN IONA WHITE

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INTRODUCTION

The era beginning with the end of the Civil War and lasting until 1883 marks a very distinctive period in the history of blacks in America. "It opened with the collapse of the slave system, and closed with a Supreme Court decision that killed federal legislation designed to confer upon a lately emancipated people the political, civil, and social status that only free whites had hitherto enjoyed."[1]

The problem of reconstruction began immediately after the first shot of the Civil War was fired. No one in the North, from the President on down, had any doubt that the South would eventually be defeated.[2] Abraham Lincoln had one of his first opportunities to test his ideas on reconstruction with New Orleans, which fell into the hands of the Union army early in the war. By 1863 Lincoln felt that the war had progressed far enough for him to issue a Proclamation of Amnesty for ex-Confederates who would pledge their allegiance to the federal government. It also made it easy for them to regain their former positions in the national government.[3]

It will always remain debatable as to whether or not Lincoln's generous plans would have been successful. Franklin points out that certain

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[1]Richard Bardolph, ed., The Civil Rights Record-Black Americans and The Law, 1849-1970 (New York: Thomas Y. Crowell Company, 1970), p. 25.

[2]Kenneth M. Stampp, The Era of Reconstruction, 1865-1877 (New York: Alfred A. Knopf, 1965), p. 24.

[3]John Hope Franklin, Reconstruction After the Civil War (Chicago: University of Chicago Press, 1961), pp. 15-17.

members of Congress were opposed to the lenient ideas of Lincoln and "persistently refused to seat representatives from the 'Lincoln states'." Several Congressmen were distressed because Lincoln had not provided for adequate means to protect the newly freed blacks.[1] It seems, then, that if Lincoln had lived he would have found problems with Congress in fully implementing his plans.

When Andrew Johnson took office Radical Republicans believed they had found an ally. It was known that Johnson had made several vicious speeches concerning the South.[2] Radicals soon discovered, however, that he was more concerned with bringing the Southern yeoman into power and punishing the Southern aristocracy, whom he despised.[3] When the Radicals returned to Congress in the winter of 1865 they were angered at the presence of so many high ranking ex-Confederates seeking seats in Congress. They were now more determined than ever to take charge of reconstructing the South.[4] They were angered not only with the prospect of seeing their former enemies taking seats beside them but they were also angered at the enactment of the notorious black codes. They felt the codes represented a virtual return to slavery.

The theory behind the black codes, according to the South, was that even though blacks were nominally free they were by no means able to take care of themselves and they needed the guidance and care of their former

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[1] Ibid., pp. 23-26.

[2] Stampp, pp. 50-52.

[3] Ibid., pp. 53-57.

[4] John Hope Franklin, From Slavery to Freedom-A History of Negro Americans (3d ed.; New York: Vintage Books, 1969), p. 304.

masters.[1] These codes convinced many moderates that the South had no intention of dealing with blacks justly. "And it was this apparent intransigence of the ex-Confederates that played into the Radical's hands, driving countless moderates into their camp...".[2] The obstinate attitudes of the South convinced many that harsh methods were needed to deal with them. To this end a joint committee was formed in Congress and the Reconstruction Act of 1867 was the result. Far harsher than he was willing to accept, Johnson vetoed the bill. Congress over-rode his veto and with the passage of the Reconstruction Act of 1867 Radical Reconstruction was in full motion.[3] This Act formed the basis for reconstruction in the South from 1867 until 1877 when the last federal troops were withdrawn from the South.

There have been several interpretations of Reconstruction not only of the South in general but of Georgia in particular. These varying interpretations point out a problem in Reconstruction historiography. As writers become more objective in their research, changing interpretations of the Reconstruction era emerge.

Older writers such as E. Merton Coulter present a distorted image of Reconstruction in Georgia. Coulter felt that the radical reconstruction of Georgia was both a political and an economic disaster that resulted in economic ruin and black control of the state legislatures.[4] In describing

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[1]Benjamin Brawley, A Social History of the American Negro. Being A History of the Negro Problem in the United States. Including a History and Study of the Republic of Liberia (New York: Macmillian Company, 1921), pp. 267-268.

[2]Bardolph, Civil Rights Record, pp. 35-37.

[3]Franklin, From Slavery to Freedom, pp. 304-305.

[4]E. Merton Coulter, Georgia A Short History (Chapel Hill: The University of North Carolina Press, 1947), pp. 348-350.

the black delegates to the constitutional convention of 1867 Coulter referred to the black delegates as a sight that was sickening to the hearts of Georgians. He said they were vicious, innocent, ignorant and illiterate.[1]

The only way for whites to regain control of Georgia, according to Coulter, was through the use of secret societies such as the Ku Klux Klan. The Klan was used with great effectiveness in the northern part of the state where it was used to regulate social and economic conditions of blacks, and it was used in the cotton belt to deter blacks from entering politics.[2]

John Hope Franklin accused Coulter of being guilty of misinterpreting the Reconstruction period and of injecting his own point of view in his writings. Coulter did not exhaust all of the sources available to him, especially the revisionist writings, and in many instances he completely ignored black contributions and overemphasized black weaknesses.[3]

More enlightened and objective writers such as W.E.B. Du Bois present an entirely different view of Reconstruction. Unlike Coulter, Du Bois found the black representatives to the constitutional convention of 1867, held in Atlanta, to be very capable. These blacks were active in the discussions at the convention and used their political privilege with both intelligence and caution. While Coulter refers to them as ignorant and criminal, Du Bois found such men as Aaron Bradley, J.B. Costin and

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[1] Ibid., p. 367.

[2] Ibid., pp. 370-372.

[3] John Hope Franklin, "Whither Reconstruction Historiography," Journal of Negro Education, XVIII (November, 1948), 446, 449-450, 460.

Henry McNeal Turner to be very capable.[1] Du Bois also maintained that the Reconstruction government of Georgia was not a "Negro-carpetbagger combination." Blacks and carpetbaggers were never in a majority position and most of them were relegated to minor positions. Du Bois also found nothing to support the idea that blacks were responsible for the extravagance and waste in Georgia.[2] Instead, he attributed the extravagance and dishonesty in Southern governments to the poverty of blacks, the former dishonesty of the political South that was common before the war, and the presence of Northern politicians.[3] On the other hand, black rule in the South provided a democratic government, free public schools, and badly needed social legislation.[4]

In 1940 Howard K. Beale pointed out the biased attitude and bitterness of many Reconstruction historians.[5] He felt that the Dunning school of historians had over-emphasized the harm done to the South by the Radical Republicans; that Reconstruction could only be understood if it was studied in its own setting. To him, Reconstruction should be conceived of

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[1]W.E.B. Du Bois, Black Reconstruction in America. An Essay Toward a History of the Part which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880 (New York: Meridian Books, 1968), pp. 497-499.

[2]Ibid., p. 510.

[3]W.E.B. Du Bois, "Reconstruction and Its Benefits," American Historical Review, XV (July, 1910), 790.

[4]Ibid., p. 795.

[5]Howard K. Beale, "On Rewriting Reconstruction History," American Historical Review, XLV (July, 1940), 807.

as part of the national history rather than an isolated incident in Southern history.[1]

Bernard Weisberger, holding views similar to those of Beale, said that the Republican state governments under the Reconstruction Acts of 1867 were not composed of corruptionists. Blacks and whites alike achieved a number of praiseworthy social and educational reforms.[2]

This short summary of the Reconstruction period and problems involved in Reconstruction historiography sets the stage for the passage of the Civil Rights Act of 1875. Charles Sumner introduced the bill to supplement the Civil Rights Act of 1866 which he felt was far from adequate in its protection of the newly freed black man. Sumner felt the passage of his Civil Rights bill would be the crowning point of reconstruction and with its passage nothing else could be done that he knew of to insure adequate protection for blacks.

This paper attempts to explain how the Civil Rights bill was passed and the difficulty it encountered by congressmen who opposed it. Then, by using Georgia as an example, this paper will present a general discussion of black and white reaction to the passage of the bill, and finally, an analysis of the Supreme Court's historic decision in 1883 which declared the Civil Rights Act of 1875 unconstitutional and the reaction of both blacks and whites in Georgia to the decision.

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[1] Ibid., pp. 808-811.

[2] Bernard A. Weisberger, "The Dark and Bloody Ground of Reconstruction Historiography," Journal of Southern History, XXV (November, 1959), 432.

CHAPTER I

THE PASSAGE OF THE CIVIL RIGHTS ACT OF 1875

On March 1, 1875, nearly a year after his death, Charles Sumner's Civil Rights bill became the law of the land. This, incidentally, was the last federal civil rights legislation until 1957. Although Sumner never lived to see his bill enacted into law, it would be impossible to explain the passage of the Civil Rights Act without also discussing the much heralded egalitarian leader of the black minority. His ceaseless energy and drive did much to enable the bill to become law even though it was a watered down version of his original one.

Born January 6, 1811, in Boston of a distinguished family, Sumner was educated in some of the best schools in the country. He graduated with honors from Harvard and went on to receive his law degree at the same school in 1834.[1]

Sumner made equal rights a major purpose of his career very early. In 1838 he joined the Massachusetts Anti-Slavery Society and provided the party with its slogan, "The Repeal of Slavery Under the Constitution and Laws of the Federal Government."[2] He counseled blacks in Boston who fought segregated schools. He aided in passing legislation to enable

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[1]C. Edward Lester, Life and Public Services of Charles Sumner (New York: United States Publishing Company, 1874), pp. 2-5.

[2]Ibid., p. 14.

blacks to appear as witnesses in court in Washington, D. C.[1]

Following the Civil War, Sumner, as few men did, realized that the future of the United States depended on the ability of the black and white races to live together in peace and equity.[2] He worked hard for the passage of the Civil Rights Act of 1866 even though he had done little to aid in framing or advocating it.[3] On April 9, 1866, Congress passed "An Act to protect all persons in the United States in their Civil Rights, and Furnish the Means of their Vindication," commonly known as the Civil Rights Act of 1866, which consisted of 10 sections.[4] The Act was passed over the veto of Andrew Johnson by a two-thirds majority of the Senate on April 6, 1866 and by a two-thirds majority of the House on April 9, 1866.[5]

Following passage of the Civil Rights Act public sentiment for civil rights died rapidly. Abolitionists who remained active in the civil rights movement were convinced that the Civil Rights Act was insufficient and unenforced. Everyday blacks faced countless discriminations and indignities.[6] Abolitionists were hampered in ending discrimination because state laws were not enforced. A decade of such abuses convinced many that a federal law would have to be enacted to end segregation and guarantee

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[1]L. E. Murphy, "The Civil Rights Law of 1875," Journal of Negro History, XII (July, 1927), 112-113.

[2]David Donald, Charles Sumner and The Rights of Man (New York: Alfred A. Knopf, 1970), p. 537.

[3]Ibid., pp. 259-260.

[4]U.S., Statutes at Large, XIV, 27.

[5]Ibid., pp. 29-30.

[6]James McPherson, "Abolitionists and the Civil Rights Act of 1875," Journal of American History, LII (December, 1965), 495.

equality.[1]

Sumner fully realized the inadequacies of the Civil Rights Act of 1866 and felt that it was ironical that a black man would be seated in the Congress of the United States, yet once outside the Congressional chambers be subject to personal insults and indignities. He believed that if a black man could sit next to him in Congress he should be able to sit next to him on a railroad couch, a steamboat, a theater or a restaurant.[2] To insure that blacks received such rights he introduced a supplement to the Civil Rights Act of 1866 in the Senate on May 12, 1870. The bill entitled "An Act to protect the citizens of the United States in their civil rights, and to furnish the means for their vindication," proposed to secure equal rights in railroads, steamboats, public conveyances, hotels, licensed theaters, houses of public entertainment, common schools and institutions of learning authorized by law, church institutions and cemetery associations incorporated by national or state authority and on juries in courts, both national and state.[3] In July, 1870, the bill was reported back adversely from the Senate Judiciary committee and was indefinitely postponed.[4]

When Sumner's bill was placed on the calendar in the following

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[1] Ibid., p. 500.

[2] Murphy, p. 113.

[3] Cong. Globe, 41st Cong., 3d sess., p. 3434.

[4] Ibid., p. 5314.

session[1] it received wide support from black people throughout the country. Black people constantly petitioned Congress to relieve them of the inequalities they suffered daily and asked for passage of the supplementary Civil Rights Bill. Many of these petitions were sent to Sumner who in turn presented them on the floor of the Senate. One petition from J.F. Quarles of Georgia dated January, 1872, said in part:

> Right well I know that these legislative enactments alone cannot remedy these social evils. But there is a grand and a moral power in the spectacle of a whole people arising to assert their rights and demanding justice, which can neither be overlooked nor ignored. And now we ask the southern people in all candor, if we have not borne this species of oppression long enough? . . . We are weary of being treated as outcasts and strangers in the land of our nativity, and the home of our fathers. . . Let the abominable crimes against humanity be buried in the grave of oblivion, and write upon their tombstone 'no resurrection.'[2]

Because Georgia's Senator Joshua Hill had been so conspicuous in opposing equal rights, Sumner presented a resolution from a mass meeting held January 2, 1872, in Macon, Georgia. Signed by 4,000 persons, both black and white, the resolution asked for the rapid passage of the supplementary Civil Rights Bill.[3] Sumner also read a lengthy letter from the Reverend Henry McNeal Turner of Macon in which he expressed some of the indignities encountered by blacks in their travels in the South.[4]

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[1] Ibid., p. 5314.

[2] Cong. Globe, 42d Cong., 2d sess., p. 429. Quarles was the pastor of Friendship Baptist Church in Atlanta, Georgia.

[3] Ibid., p. 429.

[4] See Appendix A.

In spite of pleas for the passage of the Bill it remained bogged down on the Senate calendar. In 1871 the House passed a General Amnesty Act which called for the removal of all political disabilities imposed by the third section of the 14th Amendment.[1] When the bill was introduced in the Senate Sumner asked that his Civil Rights Bill be added as an amendment to the Amnesty Act. Justifying his actions Sumner said:

> I do not like to be against anything that may seem to be generous, but I do insist always on justice, and now that it is proposed that we should be generous to those who were engaged in the rebellion, I insist upon justice to the colored race everywhere throughout this land, and in that spirit I shall ask the Senate to adopt as an Amendment in the form of additional sections what is already known in the Chamber as the supplementary civil rights bill which I now send to the chair to have read.[2]

This proposed amendment to the Amnesty Act brought about a heated discussion between Sumner and Joshua Hill, the newly seated Senator from Georgia,[3] who opposed the proposed amendment. Hill deemed it unwise to burden the Amnesty Act with amendments and attachments. He thought the amendment was not essential to the Amnesty Act and would only lead to its defeat; and that amending it would tie up the Amnesty Act for weeks or months in endless debate because of its controversial nature.[4]

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[1] Cong. Globe, 42d Cong., 2d sess., p. 237.

[2] Ibid., p. 240.

[3] The Biographical Directory of the American Congress, 1774-1961 (Washington, D. C.: United States Printing Office, 1961), p. 1054.

[4] Cong. Globe, 42d Cong., 2d sess., p. 241.

Sumner admonished Hill for wanting to ignore the issue of equal rights when over half the population of his state consisted of black people.[1] Hill replied that as long as separate facilities were equal there was no need to combine them and force the races to mingle. He was "one of those who believed that it pleased the Creator of heaven and earth to make different races of men and it was his purpose to keep them distinct and separate." He added, however, that it wasn't the fault of the race that socially, they are not the equals of the white race today."[2]

To Hill's comments Sumner said a law excluding man on account of race was an insult, an indignity and a wrong. The denial of equal facilities to Sumner was outside the domain of social characteristics, and when any facility that was regulated by law such as schools and railroads discriminated because of color it was subject to government regulation.[3] He also asserted that if his amendment was not adopted he did not see how he could in all honesty and sincerity vote for the Amnesty Act because "A measure that seeks to benefit only the former rebels and neglects the colored race does not deserve success, it is an unworthy measure, it cannot be sustained by a righteous public sentiment."[4]

An amendment was offered to strike out the clause including churches in Sumner's Civil Rights amendment and it was adopted by a vote of 29 to 24.[5] Thus amended, the Senate agreed to attach Sumner's Civil Rights

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[1]Charles Sumner, The Works of Charles Sumner (Boston: Lee and Shepard, 1883), XIV, 358.

[2]Ibid., pp. 361-364.

[3]Cong. Globe, 42d Cong., 2d sess., pp. 242-243.

[4]Ibid., p. 278.

[5]Ibid., pp. 898-899.

amendment to the General Amnesty Act by vote of 29 for and 28 against.[1] Senator Hill argued that with the General Amnesty Act amended to include Sumner's Civil Rights bill he could not very well vote for it. Some senators, including Hill, felt that Sumner had deliberately used tactics to doom not only the General Amnesty Act but also the Civil Rights bill. Separately they both had a good chance of passage but together they would both fail.[2] With Sumner's amendment a two-thirds majority was needed to pass the General Amnesty Act. When a vote was called for on the Amnesty Act there were 33 in favor and 19 opposed.[3] Lacking the necessary two-thirds majority, it was defeated.

In May, 1872, the House passed another Amnesty Act and when it came to the Senate Sumner again attempted to have his Civil Rights bill attached to it.[4] Showing how lightly he took the bill, on May 9, 1872, Senator Joshua Hill of Georgia moved to amend Sumner's bill by adding that persons must be properly clothed. The preceeding day a senator had commented that he had no objections to sitting next to properly clothed colored people. Therefore, Hill would have someone inspect people to see whether they were properly clothed and if they were not they could be excluded from railroads, inns, restaurants, hotels, theaters, churches, cemeteries and schools. This amendment brought laughter from the Senate chamber and was summarily rejected.[5] Again Sumner's Civil Rights amendment was

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[1] Ibid., p. 919.

[2] Ibid., p. 927.

[3] Ibid., pp. 928-929.

[4] Sumner, XIV, 46.

[5] Cong. Globe, 42d Cong., 2d sess., p. 3265.

added to the Amnesty Act. When a vote was called for on the Amnesty Act with Sumner's amendment attached it suffered a second defeat for lack of a two-thirds majority.[1]

There has been some debate as to Sumner's motives for attempting to pass the Civil Rights bill by attaching it to the Amnesty Act. It seems that Sumner was of the opinion that by attaching his bill to the Amnesty Act he could entice those in favor of granting clemency to Southern whites to also vote for equal rights for blacks.[2] He felt that the votes from those who favored amnesty and those who favored the Civil Rights bill would be enough to pass both measures. However some senators were unwilling to go along with Sumner's strategy. They opposed the Amnesty Act and were only lukewarm to the Civil Rights bill. They voted in favor of Sumner's amendment in hopes that those opposing the Civil Rights bill would also oppose the Amnesty Act.[3] These tactics proved successful and an effective block was thus formed to defeat the Sumner amendment.

On May 21, 1872, during an all night session of the Senate, Sumner was forced to leave because of ill health. During his absence the Senate took up consideration of his Civil Rights bill[4] and passed an "Emasculated Civil Rights bill" excluding the clause on schools, churches, cemeteries and juries along with the enacting clause.[5] Fortunately for Sumner, however, the House was unwilling to pass the Civil Rights bill even in its emasculated form.[6]

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[1]Sumner, XIV, 467.

[2]Murphy, p. 114.

[3]McPherson, p. 502.

[4]Sumner, XIV, 467.

[5]Murphy, p. 116.

[6]Sumner, XIV, 469-470.

In December, 1873, the Senate once more took up consideration of the Civil Rights bill[1] and in early 1874 Sumner made his last efforts on behalf of his bill.[2] But health forced Sumner to delay action on his bill and on March 11, 1874, he lay desperately ill. Among those present at his bedside were Ebenezer R. Hoar and Frederick Douglass. Sumner implored them, "You must take care of the civil rights bill - my bill, the civil rights bill, don't let it fail." Sumner died later on in that same evening.[3]

A month after Sumner's death the Senate took up consideration of the Civil Rights bill and after considerable debate it passed the Senate on May 22, 1874, with 29 in favor, 16 opposed and 28 abstentions.[4]

There has been some debate as to the role that Sumner's death played in the passage of the Civil Rights bill. There is some evidence to suggest that by the later part of 1873 most Republicans had come to the conclusion that some type of civil rights bill would have to be passed in order to satisfy the demands of blacks and abolitionists. Therefore it is probable that a civil rights bill would have passed even if Sumner had lived.[5] But there were those who were motivated to vote for the passage of the bill as a memorial to the late senator. The number of abstentions, however, points out that there were still those who opposed the bill but did not want to go on record as having opposed it. In the next session of Congress the House took up consideration of the Civil Rights bill as it had passed the Senate.

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[1] Cong. Record, 43d Cong., 1st sess., p. 2.

[2] Ibid., p. 945.

[3] Donald, pp. 586-587.

[4] Cong. Record, 43d Cong., 1st sess., p. 4175.

[5] McPherson, p. 504.

The rules of the House required a two-thirds vote to bring a bill to the floor immediately if it was not already on the calendar. Therefore a minority group in the House was able to block consideration of the bill.[1] To circumvent this rule, Congressman Benjamin F. Butler of Massachusetts reported a bill from the Judiciary Committee on February 3, 1875, which was similar to the Senate bill but excluded the section on schools.[2] The House version of the Civil Rights bill rapidly gained support with the clause on schools removed and on February 14 the House passed the bill with 162 in favor of it and 100 opposed. The Senate quickly agreed to go along with the House version of the Civil Rights bill and on February 27, 1875, by a vote of 38 in favor of the bill and 26 opposed, and the bill was passed.[3] On March 1, 1875, the Civil Rights Act of 1875 went into effect.[4]

It is interesting to note that in the fall of 1874 a Congressional election was held in which over 90 Congressmen lost their seats. When the vote was called for on the Civil Rights bill, 90 of the 162 who voted for the bill had been defeated in the 1874 elections and would not be members of the next session.[5] If half of these 90 Congressmen had voted against the Civil Rights bill it would probably have been defeated even in a watered down version.[6]

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[1] Sumner, XV, 313.

[2] Ibid., pp. 313-314.

[3] Ibid., p. 314.

[4] See Appendix B.

[5] Murphy, pp. 124-125.

[6] Ibid., p. 125.

There was little to celebrate in the passage of the Civil Rights Act of 1875. To provide equal accommodations without equal school education seemed illogical. Few people took the bill seriously when it was passed and there were predictions that the federal government would do little to enforce the measure.[1] Thus the Civil Rights Act was the law of the land. The question remained, though, as to what the reaction of Georgia would be to its passage. Would white people in Georgia be willing to abide by the law? How would black people react to its passage and would they be willing to assert their new found rights under the law?

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[1]McPherson, pp. 508-509.

CHAPTER II

GEORGIA'S REACTION TO THE PASSAGE OF THE CIVIL RIGHTS ACT OF 1875

Georgia's reaction to the passage of the Civil Rights Act of 1875 was varied and emotional. How one reacted to the law depended, in most cases, on whether one was black or white. There was a tremendous outpouring of emotional response when the Act was passed, especially on the part of whites.

The reaction of many whites, as would be expected, was one of hostility towards the Act. The fact that blacks were emancipated did little to change the attitude of Southern whites. They were not willing to grant blacks the rights and privileges that went along with citizenship.[1] Most people despised the black man for attempting to become an equal in the white man's society. Few whites showed any sympathy for the cause of blacks and if they did they were soon ostracized by their fellow whites.[2] Thus when the Civil Rights Act was passed cries of doom and destruction of the white race arose in Georgia.

The initial reaction of many white Georgians was alarm over the changes that were in store as a result of the passage of the bill. People were cautioned against resorting to any violence or rash actions. Some predicted that if blacks tried to enter the white man's society they would

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[1]Clarence A. Bacote, "Some Aspects of Negro Life in Georgia, 1880-1908," Journal of Negro History, XLIII (July, 1958), 186.

[2]Alan Conway, The Reconstruction of Georgia (Minneapolis: University of Minnesota Press, 1966), p. 63.

be met by silence and scorn which would make them eager to return to their old ways.[1] Others contended that most black people would pay little or no attention to the Civil Rights Act and that many would be unaware of its existence unless they were told by some white person.[2] One editor thought that the Act was damaging to blacks because it filled them with false hopes and visions of equality which they were incapable of attaining. If blacks wanted to find permanent happiness, concluded the editor, they would have to return to their permanent subordinate station of life and accept it.[3]

In an interview in Nashville as reported to the Atlanta Constitution, ex-Chief Justice O.A. Lochrane of Georgia pointed out that as far as hotels were concerned the Act would be universally resisted in the South. He further explained that there was little doubt in the legal profession that the law was unconstitutional and that only a few "bull headed, bigotted negroes" would attempt to take advantage of the Civil Rights Act.[4] John M. Fleming, the state superintendent of public instruction, declared that "The law is calculated to bring about a greater race of antagonism than was ever known before, but as the bill did not include public schools," he believed there was no need for the legislature to take any action.[5]

Few white people were brave enough to speak up in defense of the Civil Rights Act. In a sermon, the Reverend W. P. Harrison of the First

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[1] Atlanta Constitution, March 2, 1875.

[2] Milledgeville Union and Recorder, March 2, 1875, p. 2.

[3] Atlanta Constitution, March 2, 1875.

[4] Ibid., March 6, 1875.

[5] Ibid.

Methodist Church in Atlanta prophesied that the Civil Rights Act would result in a "blending of the races into one homogeneous motley association." He cautioned people, however, that it would be best for them to obey the law rather than to go against it.[1] An editorial in the Atlanta Constitution strongly opposed Harrison's pleas for obedience to the laws:

> The continued degradation and thriftlessness of the free negro . . . with the general grossness of their nature which no education has ever presumed to change, demonstrates the impossibility of achieving for them an elevation that will justify their intimate association with the whites which is the philosophy of Harrison's theory disguise it as you will.[2]

A rash of indignation arose when George Pullman ordered full compliance with the Civil Rights Act aboard his pullman cars. He insisted that any black who could pay the price should be entitled to a berth on his sleeping cars.[3] On a train coming from Macon it was reported that a "large black negro" came to the sleeping car with a ticket for an upper berth. The conductor could find nothing wrong with the ticket, therefore he had to comply with Pullman's orders. A white lady in the lower berth from Baltimore promptly fled to the passenger section when the black man was given a berth.[4] Many whites believed that Pullman's orders would only bring trouble if he attempted to integrate sleeping car facilities in the South.

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[1] Ibid., March 3, 1875.

[2] Ibid.

[3] Ibid., April 11, 1875.

[4] Ibid., March 11, 1875.

Many blacks were decidedly in favor of the Civil Rights Act. Incidents were reported in several cities where they tried to assert their rights even though they were rebuffed in most instances.

The black citizens of Savannah held a civil rights celebration after they had received word of the passage of the Act. A procession was led by the Forrest City Chatham Fight Infantry and the Wrestling Sons of Jacob. Several wagon loads of black men and women were seen in the procession. The speaker for the occasion was the Reverend Henry McNeal Turner who delivered an address advising blacks that in spite of the passage of the Civil Rights Act, they should prepare to return to Africa.[1]

In Atlanta blacks wasted very little time in testing the Civil Rights Act. On March 8, 1875, at a performance of the Jack and Jill pantomime troup in DeGive's theater, two black men, one whose name was Peter Hill, and a black woman by the name of Clara Thomas, attempted to take seats in the white section of the theater. The show instantly stopped and cries arose to put them out. Someone politely asked them to leave and Hill replied that "they had as much right there as anyone else and they intended to stay." After much coercion, however, Hill's companions left but he stayed on and was finally forced out of the theater by an angry mob.[2] The next day Peter Hill and Clara Thomas went before the city commission to file a complaint but their complaint was ignored. They then went before the grand jury of the Fulton County Circuit Court to present their complaint in hopes of making it a test case of the Civil Rights Act.[3] No information

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[1] Ibid., March 14, 1875.

[2] Ibid., March 9, 1875.

[3] Ibid., March 10, 1875.

could be found concerning the final adjudication of this case.

In Athens blacks made attempts to integrate barrooms, saloons and billiard rooms and were met with open hostility at each place they tried to enter. Commenting on this effort by blacks, an editorial in the Athens North-East Georgian said that "it has been the disposition of some of the 'wards of the nation' habitating in these parts to avail themselves during the past week of their 'so-called' rights granted under the 'civil-rights' abomination by demanding their beers at the founts where their former masters are wont to imbibe." The saloon keepers should not give in to the demands of blacks, the editorial went on to say, because the word barroom was left out of the Civil Rights Act and therefore blacks did not have a right to enter such facilities.[1] The editorial further stated that the names of those who attempted to use the facilities of whites should be published so that those benevolent whites who aided them would know not to offer them any more assistance.[2]

Not all blacks went along with the Civil Rights Act and some were openly hostile to attempts of blacks to mingle with whites. Jackson McHenry, who had been nominated to the Atlanta City Council on the Republican ticket in 1870,[3] strongly opposed attempts of blacks to use public facilities where they were not wanted, as is revealed in a lengthy letter to the Atlanta Constitution:

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[1]Athens North-East Georgian, March 31, 1875.

[2]Ibid.

[3]Alexa Wynelle Benson, "Race Relations in Atlanta, As Seen in a Critical Analysis of the City Council Proceedings and other Related Works, 1865-1877" (unpublished Master's thesis, Department of History, Atlanta University, 1966), p. 50.

Atlanta, Ga. March 8, 1875

> Editor's Constitution: - In pursuing carefully your paper Saturday last, I discerned that you chronicled a rush of some of the colored people upon the barrooms, barbershops, hotels, etc. Now, sirs, I desire that you and the entire city understand that those persons were ignorant, licentious and vagabond "Gentlemen" loafers, prowling around as wolves driven almost blind from excessive hunger to fall upon anything that may chance to lie in their path; and not representatives of the respectable colored people who have met the passage of the "civil rights bill" with coolness, with propriety and a just appreciation, and not with rashness and without moral consideration. And I do not want you or anyone to judge the colored race by those few worthless and degenerate spendthrifts, for they are imbecile, devoid of morality, self-respect and dignity of character. They are wholly "non compotes mentis" and it is too reasonably absurd to judge a wise man from the actions of an idiot, and I desire that in the future you will scrutinize things more closely before you use another case of syneedock in such a manner as you have done. Yours respectfully,
>
> Jackson McHenry[1]

In another instance a black man who entered a restaurant owned by a black man in Athens, Georgia, was refused service. He was told by the black owner that he did not feed blacks in his restaurant, only whites. When the man told him that he was entitled to service because of the passage of the Civil Rights Act, he was kicked out of the restaurant. Both parties planned to file suits for damages in Court.[2] There were many blacks who did not press their rights because they wanted to avoid the painful rebuff they were sure to suffer from whites.

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[1]Atlanta Constitution, March 10, 1875.

[2]Athens North-East Georgian, March 31, 1875.

White Georgians were unwilling to accept the Civil Rights Act in any form and were unwilling to obey it. To them the white and black races were made too different to live together on an equal basis. They feared that once the races were allowed to mingle in hotels, restaurants, and theaters, there would be a blending of the races; the result would be mixed marriages and mulatto children. White racists emphasized that the black woman's main ambition was to be with white men while the black man would risk his life to have carnal knowledge of white women.[1] Whites decided that miscegenation was not to be allowed no matter what the cost.[2] When cases involving the Civil Rights Act came up in court, few judges were willing to hear them and most lawyers were unwilling to handle them.

Blacks for the most part did not forcefully attempt to integrate facilities except in isolated incidents. Once they became aware of the fact that whites would not abide by the law, they hesitated. They also knew that the federal law enfocement in the South was not adequate to protect them.[3]

Both races anxiously awaited a ruling by the U.S. Supreme Court as to the constitutionality of the Civil Rights Act. Whites were confident that it would be declared unconstitutional and blacks were hoping that, in spite of earlier Supreme Court decisions, it would be upheld.

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[1] S.J. Cobb, The Race Question (Thompsonville, Ga.: Davis & Cox Printers, 1881), pp. 9-10.

[2] Conway, p. 71.

[3] McPherson, p. 509.

CHAPTER III

GEORGIA'S REACTION TO THE CIVIL RIGHTS CASES OF 1883

In the 1870's and 1880's there was a general weakening of the desire of white Americans to fight racism and to protect the rights of blacks in the South. People desired to reunify the country and to put the experiences of the Civil War and Reconstruction in the past even if it was at the expense of blacks.[1] This weakening of resistance to racism was also to be found in the decisions of the Supreme Court. Beginning in the 1870's the highest Court in the land handed down a number of decisions culminating in the Civil Rights Cases of 1883 which had a far reaching effect on blacks and whites in Georgia.[2]

Most of these cases were based on the first section of the Fourteenth Amendment to the Constitution which states:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.[3]

This Amendment formed a cornerstone for much of the legislation designed to end discrimination against blacks, including the Civil Rights Act of 1875.

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[1] C. Vann Woodward, The Strange Career of Jim Crow (2d rev. ed., New York: Oxford University Press, 1966), pp. 69-70.

[2] Ibid., pp. 70-71.

[3] U.S. Constitution, Amendment XIV, Sec. 1.

One of the first cases leading up to the Civil Rights Cases of 1883 was the Slaughter-House case. This case had nothing to do with blacks directly but the Court's decision did have an effect on the future interpretation of the Fourteenth Amendment. The case arose from the reconstruction government of Louisiana and involved the granting of a monopoly of the slaughtering trade to a single concern.[1] Speaking for the Court, Justice Samuel F. Miller held that it wasn't the intention of the Fourteenth Amendment to transfer the security and protection of all the civil rights of a person from the states to the federal government.[2] In making a distinction between state and federal citizenship, the Court felt that it was only the privileges and immunities of a citizen of the United States that were included in the Fourteenth Amendment and not the privileges and immunities of citizens of the states.[3] This in effect, restricted the protection of a person's civil rights to such legislation that a state would be willing to pass.

In 1876, the Court, in the United States v. Cruikshank, handed down a similar decision. The Court held that the rights and privileges protected by the federal government by the federal statute designed to prevent threats and intimidations against blacks, dealt only with those rights incidental to national citizenship. The Court felt that the intimidation of blacks by private citizens to prevent them from peacefully assembling for lawful purposes was a local matter involving state citizenship and action.[4] Thus the meaning of the Fourteenth Amendment had been severely limited again

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[1]Slaughter-House Cases, 16 Wallace (1873), 36.

[2]Ibid., p. 58.

[3]Ibid., p. 37.

[4]Donald B. King and Charles W. Quick, Legal Aspects of the Civil Rights Movement (Detroit: Wayne State University Press, 1965), p. 11.

by the Court to apply only to state action.

In 1883 the Supreme Court handed down its long awaited decision on the constitutionality of the Civil Rights Act of 1875. A group of five cases came before the Court and they were all decided together because they all pertained to the Act in question. The cases of the United States v. Stanley, arising out of Kansas, and the United States v. Nichols, arising out of California, involved indictments for denying persons of color the accommodations and privileges of an inn or hotel.[1] The indictment in the United States v. Ryan, arising out of California, was for denying to individuals the privileges and accommodations of a seat in the dress circle of Maquire's theater in San Francisco.[2] The indictment in the United States v. Singleton was for denying to another person, whose color was not stated, the full enjoyment of the accommodations of the theater known as the Grand Opera House in New York.[3] The case of Robinson and Wife v. The Memphis and Charleston Railroad Company was action brought to recover the penalty of $500 given by the second section of the Civil Rights Act for the refusal by the conductor of the railroad to allow Robinson's wife to ride in the ladies' car because she was of African descent.[4] These cases together formed the Civil Rights Cases and were decided on October 15, 1883 with Justice Joseph P. Bradley delivering the majority opinion of the Court.

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[1]The Civil Rights Cases, 109 U.S. (1883), 3-4.

[2]Ibid.

[3]Ibid.

[4]Ibid., pp. 4-5.

The primary question before the Court was the constitutionality of portions of the Civil Rights Act of 1875, specifically Sections I and II.[1] In intrepreting the first section of the Civil Rights Act the Court felt that the essence of the Act was not to declare that all persons were entitled to its provisions but that persons could not be denied rights under the Act on account of race, color or previous condition of servitude.[2] The primary constitutional basis for the Act was the Fourteenth Amendment. In interpreting this amendment the Court held as in Slaughter-House and Cruikshank, that the first section of the Fourteenth Amendment prohibited state actions of a particular character and not the actions of individuals.[3] This being the case, the Court decided that the first section of the Civil Rights Act was clearly unconstitutional because it exercised powers that should be left to the jurisdiction of the states. No federal legislation, said the Court, could be passed to prohibit states from engaging in action that was not a violation of the Fourteenth Amendment.[4] In passing the Civil Rights Act, the Congress clearly delved into the domain of establishing municipal codes of a sort. This the Congress did not have a right to do.[5]

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[1] See Appendix B.

[2] The Civil Rights Cases, pp. 8-9.

[3] Ibid., pp. 9-10.

[4] Ibid., p. 11

[5] Ibid., pp. 18-19.

Another question before the Court was whether the refusal to any person of accommodations of an inn, or a public conveyance, or a place of public amusement, by an individual, without the support of state laws constituted a badge of slavery. The Court felt that it would be running the slavery argument into the ground to make it apply to every act of discrimination which a person saw fit to apply to another individual.[1]

The final decision of the Court then was that the first and second sections of the Civil Rights Act of March 1, 1875, were unconstitutional as applied to the states.

The dissent of John Marshall Harlan in the Civil Rights Cases is considered one of the classic opinions in the United States Supreme Court history. Harlan's opinion is more unique in view of the background he came from. He was a Southerner by birth, born in Boyle County, Kentucky in 1833. He was taught by his father at an early age to defend slavery.[2] Harlan opposed the election of Lincoln in 1864 and voiced vehement objections to the Emancipation Proclamation.[3] After the war he was very much opposed to the radical reconstruction plans of Republicans. He soon discovered, however, that he had to take a definite stand on blacks if he was to remain in politics. Feeling that his best chances for success lay with the Republican party, he began to take a more liberal stand towards blacks. The wave of lynchings and cruelties used to keep blacks "in their places" also helped

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[1] Ibid., pp. 18-19.

[2] Ibid., pp. 23-24.

[3] Louis Filler, "John M. Harlan," in The Justices of the Supreme Court, 1789-1969. Their Lives and Major Opinions, ed. by Leon Friedman and Fred L. Isreal (New York: R. R. Bowker Company, 1969), II, 1281-1282.

bring Harlan over to the Republican side. When Justice David Davis resigned from the Supreme Court in 1877 President Rutherford Hayes decided to place a Southerner on the Supreme Court. Harlan was confirmed by the Senate in November of 1877, after some heated debate to fill the vacancy left by Davis.[1]

In his dissent in the Civil Rights Cases, Harlan took sharp issue with the Court for sacrificing "substance and spirit" of the Fourteenth Amendment by a subtle and ingenious verbal criticism because of their preoccupation with whether the Fourteenth Amendment touched only state action or private action also.[2] Harlan argued that the Court was being extremely narrow in limiting discrimination to state action and not private individual action. He felt that people who operated common carriers, inns and places of amusement were not private individuals. They carried on business under state authority subject to public controls and were in a sense agents of the state. This relationship brings them within jurisdiction of the due process and equal protection clauses.[3] Harlan also took sharp issue with the Court interpretation of the thirteenth Amendment. He believed that the Thirteenth Amendment had permanently obliterated the race line, "so far as all rights fundamental in a state of freedom were concerned. To say that the Thirteenth Amendment is limited to the physical freedom of movement is extremely narrow" for what good is the right of movement if it be clogged by such burdens as Congress intended by the Act of 1875 to remove.[4] He felt that the Amendment was not restricted to legislation

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[1] Ibid., pp. 1283-1284.

[2] 109 U.S. (1883), 26.

[3] Ibid., p. 39.

[4] Ibid., pp. 39-40.

against slavery as an institution upheld by posivite law, but that it could also be used to protect "the liberated race against discrimination, in respect to legal rights belonging to freemen, where such discrimination is based on race." Therefore discrimination on account of race constituted a badge of slavery which was a violation of the Thirteenth Amendment according to Harlan.[1] He also argued that blacks had not been granted special privileges by law. The purpose of Congressional legislation was to enable blacks to take the rank of mere citizens. There was difficulty, according to Harlan, in compelling a recognition of legal rights of the black race as they were denied by corporations and individuals the fundamental rights of citizenship and freedom.[2]

Thus certain portions of the Civil Rights Act of 1875 were declared unconstitutional by the United States Supreme Court. The reaction of Georgians to the decision was immediate and emotionally filled. Whites rejoiced at the good sense displayed by the Supreme Court and blacks pondered what was to become of them now that they had lost the protection of the federal government.

Although most whites had made up their minds that "the social equality contemplated by the infamous and malignant bill could never, and should never be put into practice" they were relieved to have legal backing for their stance.[3] Many whites felt that a menace had been removed from the lives of every man possessing self-respect and family pride and devotion.

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[1] Ibid., p. 37.

[2] Ibid., pp. 59-60.

[3] Atlanta Constitution, October 16, 1883.

"A law that allowed an inferior and socially obnoxious race the right to eat at the same table and sit and sleep in the same car and public places with the Caucasian," could never be enforced among a free people and under a government meant to be controlled by white men.[1]

The owner of DeGive's theater in Atlanta, which had been the subject of numerous attempts of integration by blacks, was glad that the Court had reached the decision that it did. He said that if the Court had ruled just the opposite his theater would have been ruined. White men would have refused to bring their wives and sisters to a place where they were liable to be seated for hours next to colored people of all grades, from the lowest to the best of them.[2]

Senator Joseph Brown of Georgia declared that the Court's decision was the right one and he never doubted the unconstitutionality of the Act. He believed the decision was bound to have a good effect upon the country and it would result in the adjustment by natural methods of many of the questions concerning the colored race.[3] As president of the Western and Atlantic Railroad, he predicted that the policy on seating blacks would not change. "Colored people would not be permitted to go into the car intended for white ladies nor to intrude upon white persons who didn't desire their society; comfortable cars would be arranged on the Western and Atlantic for both races. . . ."[4]

Blacks were very much disappointed by the decision of the Supreme Court. Returning from California, Bishop Henry McNeal Turner, a former

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[1]Griffin Daily News, October 17, 1883.

[2]Atlanta Constitution, October 16, 1883.

[3]Ibid.

[4]Milledgeville Union and Recorder, October 23, 1883.

member of the Georgia House and who had worked assiduously to gain rights for blacks in the state[1] said that the nation "had no right to go back on its Civil Rights bill, no, not after voting for it." He stated that the remarkable dissent of Justice Harlan would gain him much respect among the black people of the state and that many would support him for the Presidency.[2] Blacks throughout the state agreed and were thinking of him as the most logical candidate for President in the upcoming elections.[3]

In Savannah, leading black politicians were also extremely disappointed over the Court's decision. However, they generally had not urged blacks to insist upon the privileges of the Civil Rights Act because there was some question as to its constitutionality. But, if the law had been upheld, they had planned to resort to aggressive action to see that the Act was enforced.[4] Other state blacks, leaders in particular, began to make plans for a convention to discuss ways of securing their civil rights, in light of the Court's decision.[5]

Many blacks in Georgia, as did blacks throughout the country, reacted to the Court's decision by withdrawing from the white society. They attempted to adjust themselves to the ways of white supremacy through a subtle and complex code of behavior toward whites which satisfied the

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[1]Richard Bardolph, The Negro Vanguard (New York: Vintage Books, 1959), p. 106.

[2]Atlanta Constitution, October 23, 1883.

[3]Macon Telegraph & Messenger, October 25, 1883.

[4]Savannah Morning News, October 17, 1883.

[5]Macon Telegraph & Messenger, October 3, 1883.

white men while it enabled black men to keep a measure of their self respect.[1]

With the Civil Rights Act declared unconstitutional the burden of supporting equal accommodations fell to the states. Georgia did not have a civil rights bill and depended upon the courts to determine the rights of blacks. While the state could not pass any direct legislation against blacks, it could make legal distinctions and this was done.[2]

Portents of the position blacks would hold in Georgia was expressed in an editorial which said that blacks were entitled to their freedom and to share in the privileges of government and to share in its administration as "his integrity and intelligence" would justify. "Social equality he can never have."[3]

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[1]Robert Cruden, The Negro in Reconstruction (Englewood Cliffs, N.J.: Princeton, Inc., 1969), p. 166.

[2]Eugene Turner Page, Jr., "Race Relations in the Acts of the Georgia Assembly 1765-1939" (unpublished Master's thesis, Department of Sociology, Atlanta University, 1941), pp. 15-16.

[3]Atlanta Constitution, October 21, 1883.

CONCLUSION

In 1870 Charles Sumner introduced a Civil Rights bill in the Senate which he thought would be the crowning point of Reconstruction legislation and that once it was passed, there would be nothing more that could be done to secure equal rights for the black man. He had envisioned an act to provide the legal means for blacks to exercise their civil rights which were being denied them throughout the country.

The difficulty with which Sumner's bill was received in Congress points out the fact that many people were opposed to providing civil rights to blacks. Most people were tired of dealing with the problems of reconstruction and wished to see a reunification of the North and South even if it meant sacrificing the rights of blacks. Few people felt that blacks were their social equals and that they should be guaranteed equal rights. On March 1, 1875, an emasculated Civil Rights Act became law, thus reflecting the unwillingness of whites to grant blacks social rights.

Few white people in Georgia were willing to accept the Civil Rights Act. They openly defied it and harassed and arrested blacks who attempted to take advantage of the Act. Whites felt that blacks were their social and intellectual inferiors and that any mingling of the races would lead to the degeneration of the white race.

Blacks in Georgia made several attempts to exercise their civil rights under the Act but were continually rebuffed by the hostility of whites. The enthusiasm of some died down after they found they would not have the protection of the federal government behind them. Yet, there were blacks who were skeptical of the Civil Rights Act or openly hostile towards it.

They had come to accept the separation of the races as the best method for blacks to survive.

In 1883 the Supreme Court ruled in the Civil Rights Cases that the first and second sections of the Civil Rights Act were unconstitutional. The Court viewed the Fourteenth Amendment in a very narrow fashion, saying it was limited to state action and individuals were free to discriminate as they pleased. Whites in Georgia reacted favorably to the decision and decided that the races must always remain separate while blacks retreated from open activity as they attempted to come up with ideas on how to combat social discrimination.

Thus the Civil Rights Act of 1875 never served the purpose it was meant to serve because of the refusal of everyone except blacks and a few whites to take it seriously.

APPENDIX A

Letter to Charles Sumner Concerning Indignities Suffered by Black Travelers

Macon, Georgia, December 20, 1871

Sir: I am glad to see you are pressing your Civil Rights Bill still before the United States Senate. I have only a few moments to write you at this time, but I must relate a transaction which occurred day before yesterday morning.

Just as I was about to step on the Columbus train at Macon, I heard a white man say to a well-dressed, beautiful, modest-featured lady, "Ain't you colored?" "Yes," was her reply. "Well," he said, "this is the white folk's car; that is the car for negroes." So she very politely turned away and took a seat in the car pointed out. I also stepped in the same car after her, and noticed that her looks and general appearance had the mark of superior breeding and fine culture. But not being acquainted with her I did not dare to approach her even with, "Good morning," but sat and read the morning news, and afterward folded up the paper, and raising my hat, asked her if she would like to see this morning's paper. She gracefully smiled, and accepted the same, and read till we arrived at the breakfast house, at Fort Valley. The white passengers all went out to breakfast, and she politely arose from her seat and came to where I was sitting and said that she was from Boston, Massachusetts, had been traveling for some days and nights, was on her way to Alabama to take charge of a high school, and had had nothing to eat since she crossed the Potomac River, &c.; and would I be so kind as to step out to the hotel and ask the keeper to send her some breakfast on a waiter. I instantly replied, "Yes, yes," and hastily left the train for the boarding-house, and made the necessary request. But the landlord asked, "Is she white or colored?" I told him she was colored, but she was a very respectable colored lady. "Well," he said, "we have not got enough cooked this morning for the white folks; so I can't let her have anything." "But," said I, "then send her a cup of tea and a biscuit." "I can't spare it," he said. "Well," said I, "let her come in, and fry her some eggs." Said he, "I have got nothing in my house for her." So I went back and stated, not only to her, but to all in the car, what was said. The affair so mortified some white Democrats on the train at the time that they even cursed about it, and, I believe, felt sorry for the colored lady. One white man (a Democrat, too) said that kind of prejudice was damn foolishness; and he thought railroad eating-houses ought to have one white table and one colored table, or let all eat together.

I afterward found out that this colored lady was a graduate of Boston high school, and then of a university. She had letters vouching for the highest and most spotless character. And in the face of it all she could get nothing to eat from Aquia Creek to Montgomery, Alabama, notwithstanding she had left home, relatives, and friends to educate a people who are in the future to wield, in part, the destinies of the nation.

Let the facts speak for themselves; I shall say no more.

Your humble servant, H.M. Turner[1]
Hon. Charles Sumner

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[1]Cong. Globe, 41st Cong., 3d sess., pp. 429-430.

APPENDIX B

The Civil Rights Act of 1875

CHAP. 114. - An act to protect all citizens in their civil and legal rights.

Whereas, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to met out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 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, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars, 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 five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty 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 the other, their right to proceed in the other jurisdiction shall be barred. But this proviso 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.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses against, and violations of, the provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party; and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offense, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases: Provided, That nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person, whether by reason of this act or otherwise; and any district attorney who shall willfully fail to institute and prosecute the proceedings herein required, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars: And provided further, That a judgment for the penalty in favor of the party aggrieved against any such district attorney, shall be a bar to either prosecution respectively.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined not more than five thousand dollars.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

Approved, March 1, 1875.[1]

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[1]U.S., Statutes At Large, XVIII, 335-337.

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