This is a declaratory judgment action, 28 USC §2201 and §2202, attacking ~~the~~ the constitutionality of Title II of the Civil Rights Act of 1964, 78 Stat. 241.* The appellant operates a motel in Atlanta Georgia for lease or hire for transient guests. It refused to rent rooms to a member of the Negro race prior to the enactment of the Act and did not intend to do so thereafter. It filed the suit ~~to enjoin the United States respondents from forcing the motel to accept Negro guests under the Act~~ seeking declaratory relief, an injunction restraining the enforcement of the Act and damages against respondents. Alleging irreparable injury, ~~which allegations were denied~~ based on a three judge District Court, required under 28 USC 2282 as well as §206(a) of (b) the Act, sustained its validity and on the counterclaim of the respondents issued a permanent injunction restraining appellant from continuing to violate the Act. On orders of Mr. Justice Black, acting as Circuit Justice, this injunction remains in effect during this appeal. We affirm the judgment.

Copy Title II in Appendix See Juris. Statement p 2

1. The factual background and contentions of the parties:

The case comes here on admissions and stipulated facts. Appellant owns and operates the Heart of Atlanta Motel, which has 216 rooms available to transient guests. Appellant solicits patronage from outside the State of Georgia through various national advertising media, including magazines of national circulation; it ~~accepts convention trade from outside the state and~~ maintains over 50 billboards and highway signs within the state soliciting patronage for the motel; it accepts convention trade from outside the state and approximately 75% of its registered guests are from outside the state. The motel ~~had at all times prior to suit declined to rent room~~ had followed a personal practice of not renting rooms to Negroes, which it intended to continue and filed this suit to prevent the enforcement of the Act against its policy.** The appellant contended ~~The principal~~ that the Act exceeded the power of Congress to regulate commerce as granted it by Article I, Section 8, Clause 3 of the Constitution of the United States; that it is also was violative of the Fifth Amendment in

The motel is located on Courtland Street, two blocks from downtown Peachtree Street. It is readily available to Interstate Highways Nos. 75 and 85 and state highways Nos. 23 and 41.

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that it worked in a taking of liberty and property without due process and for a public use without just compensation because it deprived appellant of its claimed right to choose its customers and to operate its business as it sees fit; and, finally, that the Thirteenth Amendment was violated because the Act requires appellant to rent available rooms to Negroes against its will, subjecting it to involuntary servitude.

The appellees counter that the ~~commerce clause power~~ unavailability to Negroes of adequate lodging accommodations interferes significantly with interstate travel and under the commerce clause, that Congress has power to remove such obstacles. They say that there is no violation of appellant's rights under the Fifth Amendment because its due process clause grants no immunity from reasonable regulation and that any consequential damage would not be a "taking" within the meaning of the Fifth Amendment; and, ~~so to the Thirteenth Amendment claim,~~ appellees ~~argue the involuntary servitude claim on an a fortiori ground, asserting that the Thirteenth Amendment~~ ~~by its own terms~~ will not subject appellant to involuntary servitude ~~because that Amendment was designed not only to prohibit~~ not only prohibited human bondage but including the several disabilities and ~~the widely accepted practices of branding the Negro~~ that ~~marked~~ originated as an ~~inferior~~ human being.

of the ~~Fifth~~ Amendment; the involuntary servitude claim fails appellees say because the Thirteenth Amendment not only proscribed human bondage but the removal of all disabilities of servitude ~~and~~ then widely accepted and which branded the Negro as an inferior human being.

~~The District Court held~~

At the trial the ~~District Court~~ appellees offered evidence that appellant had refused, after passage of the Act, to accomodate Negro guests because of their race and color; appellant offered no evidence ~~and the case was submitted~~ submitting the case on the pleadings admissions and stipulation of facts. The District Court sustained

the constitutionality of the sections of the Act under attack. [~~involved~~ [§ 201 (a) (b) (1) and (c) (1)]. ~~The appellees had~~ A permanent injunction was issued on the counterclaim of the appellees, ~~which~~ it restrained the appellant from "refusing to accept Negroes as guests in the motel by reason of their race or color" and "from making any distinction whatever upon the basis of race or color in the availability of ~~service~~ the goods, services, facilities, privileges, advantages or accommodations offered or made available to guests of the motel, or to the ~~general~~ public, within or upon any of the premises of the Heart of Atlanta Motel, Inc."

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2. The History of the Act.

It was on June 19, 1963, that the late President Kennedy called for civil rights legislation in a message to Congress to which he attached a proposed bill. Its stated purpose was

> "to promote the general welfare, by eliminating discrimination based on race, color, religion, or national origin in ... public accommodations through the exercise by Congress of the powers conferred upon it ... to enforce the provisions of the Fourteenth and Fifteenth Amendments, to regulate commerce among the several states, and to make laws necessary and proper to execute the powers conferred upon it by the Constitution.

Bills were introduced in each House of the Congress, embodying the President's suggestions, the one in the Senate being S. 1732 and that in the House, H.R. 7152. However, it was not until July 2, 1964, some seven months after President Kennedy's death, that President Johnson secured the passage of the Civil Rights Bill of 1964 here under attack.

After extended hearings each of these bills were favorably reported to their respective houses, H.R. 7152 on November 20, 1963, Report No. 914, 88th Cong. 1st Sess, and S 1732 on Feby. 10, 1964, Report No. 872, 88th Cong. 2nd Sess. Although each bill originally ~~had~~ incorporated extensive findings of fact these were eliminated from the bills as they were reported. The House passed its bill in January, 1964, and sent it to the Senate. Through a bipartisan coalition of Senators Humphrey and Dirksen, together with other Senators, a substitute was worked out in informal conferences. This substitute was adopted by the Senate and sent to the House where it was adopted without change. This expedited procedure prevented the usual report on

the substitute bill in the Senate as well as a conference committee report ordinarily filed in such matters. Our only frame of reference as to the legislative history of the act is, therefore, the hearings on the respective bills in each house, the Reports on each and the debates thereon.

It appears clear from these sources that the overall design of the Act ~~is the elimination of discrimination and protection~~ was the protection of persons and goods moving in the stream of interstate commerce at the point of destination through the elimination of discrimination

It appears clear from these sources that the grand design of the Act was the protection of persons and goods moving between the states at the point of their destination through the elimination of racial and religious discrimination. ~~At last~~ The Act as finally adopted was most comprehensive, undertaking to prevent through peaceful and voluntary settlement, discrimination in voting, as well as in places of accommodation and public facilities, federally secured programs and in employment. Since (Title II is the only one) under attack here ~~has to do with public accommodations~~ we confine our consideration to ~~the~~ its public accommodations provisions.

3. Title II of the Act.

This title is divided into seven sections beginning with §201(a) which provides that

> "All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accomodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion or national origin."

There is listed in Section 201(b) the four ~~types~~ classes of business establishments coming "which serves the public and is a place of public accommodation" within the meaning of §201(a) "if its operations affect commerce or if discrimination or segregation by it is supported by State action". This list is:

"(1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence."

"(2) ~~any restaurant, cafeteria etc [not here involved]~~
~~motion picture etc not here involved~~

(3) any motion picture house etc - [not here involved]

(4) any establishment which is located within the premises of an establishment covered by the above three subsections, which serves patrons of the covered establishment [not here involved]

Section 201(c) defines the phrase "affect commerce" as applied to the above establishments. It first declares that "any inn, hotel, motel or other establishment which provides lodging to transient guests" affects commerce *per se*. Restaurants, cafeterias etc in the second class affect commerce only if they serve or offer to serve interstate travelers or a substantial portion of the food which they serve or products which they sell "have moved in commerce." Motion picture houses and other places ~~so~~ listed in class three affect commerce if they "customarily present films, performances etc "which move in commerce." And the establishments listed in class 4 affect commerce if ~~they~~ the establishment within which they are located affects commerce as if there is such an establishment within such enclosure that so does. Private clubs are excepted under certain conditions. See 201(e).

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Section 201(d) declares that "discrimination or segregation" is supported by State action when carried on under color of any law, statute, ordinance, regulation or any custom or usage required or enforced by officials of the State or any of its subdivisions.

In addition, §202 ~~prohibits any person~~ affirmatively declares that all persons "shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order of a State or any agency or political subdivision thereof."

Finally §203 prohibits the withholding or denial etc of any right or privilege secured by §201 and §202 or the intimidation, threatening or coercion of any person with the purpose of interfering with any such right or the punishing etc of any person for ~~of~~ exercising or attempting to exercise any such right.

The remaining sections of the Title ~~provide specific remedies~~ are remedial ones for violations of any of the previous sections. Remedies are limited to civil actions, including injunctive relief. The Attorney General may bring suit where he has "reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature or is intended to deny the full enjoyment of any of the rights secured by this title." Thirty days written notice before filing any such action must be given [to the appropriate authorities ~~in case the state~~ of a state or subdivision the law of which prohibits the act complained of and ~~that is established therein~~ which has established an authority which may grant relief therefrom. In states where such condition does not exist the court after a case is filed may refer it to the Community Relations Service which is established under Title X of the Act. This title establishes such

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service in the Department of Commerce, provides for a Director thereof to be appointed by the President with the advice and consent of the Senate and grants it certain powers, ~~and duties~~ including the holding of hearings, with reference to matters coming to its attention by reference from the court or between communities and persons involved in disputes arising under the Act.

~~4. It is admitted that~~

4. Application of Title II to Heart of Atlanta Motel.

It is admitted that the ~~motel does~~ operation of the motel brings it within the provisions of § 201(a) of the Act; that the motel refused to provide lodging for transient Negroes because of their race or color and that it intends to continue that policy unless restrained; that the motel ~~accepts solicits, solicits~~ solicits patronage (including the convention trade) from persons outside of Georgia through various national and state advertising media; ~~including the convention trade;~~ that ~~75%~~ it holds itself ready to accept interstate travelers, other than Negroes, for transient lodging [at all times] and that 75% of its transient guests come from outside [of] the State.

The sole question posed is, therefore, the constitutionality of the Civil Rights Act of 1964. Its constitutionality, as applied to these facts, depends upon the power of the Congress to regulate interstate commerce under Article I, Section 8, Clause 3 of the Constitution; its power under the Equal Protection Clause of the 14th Amendment and under § 5 thereof as well, ~~granting it power to implement that Amendment.~~ No. 11 A reading of the prolonged hearings in both Houses of Congress; the Reports of their respective committees; the statements of the ~~Sponsors~~ sponsors of the Act as well as of its antagonists; and the debate in both Houses, especially the Senate where the bill was under consideration continuously for 534 hours, points conclusively to the

fact that Congress placed chief reliance upon its power "to regulate commerce ... among the states". Our detailed study of the entire record of the proceedings in the light of our cases has brought us to the conclusion that Congress possessed ample power in this regard and we have therefore not considered the other grounds upon which it relied. This is not to say that the ~~other~~ remaining authority upon which it acted was not ample, a question upon which we do not pass, but merely that since the commerce power is sufficient for our decision here that we ~~do~~ have considered it alone.

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3. The Civil Rights Cases, 109 US 3, (1883) and Their Application.

In the light of this ground for our decision it might be well at this point to discuss the Civil Rights Cases, supra, which declared unconstitutional provisions of the ~~public accommodations section of the~~ Civil Rights Act of 1875, 18 Stat. 335, 336 (which were similar to Title II) (which we construed). These cases have been often cited as conclusive authority that Title II the act here is unconstitutional. We think, however, that these cases are inapposite. It is true that in the 1875 Act the Congress prohibited discrimination in "inns, public conveyances on land or water, theaters and other public places of amusement" but the Court did not have before it the issue here presented. There the power exercised by the Congress was the Equal Protection Clause ~~which~~ of the 14th Amendment and as the Court noted the statute ~~that Act~~ was "not conceived in any such view" as an exercise of the commerce power. This lead to the Court's ~~the~~ observation that "no one will contend that the power to pass it was contained in the Constitution before adoption of the last three amendments" [13th, 14th and 15th Amendments]. Over The fact that the Civil Rights Cases are inapposite here ~~the~~ was made perfectly clear by this Court in Butts v Merchants and Miners Transp. Co 230 US 126 (1913) where it was contended that ~~a vessel engaged in commerce above~~ the 1875 Act was constitutional when applied to a vessel engaged in commerce and under the exclusive admiralty jurisdiction of the United States. The Court held that the Civil Rights Cases received "no support from the power of Congress to regulate interstate commerce because, as is shown by the preamble and by their terms, they were not ~~entitled~~ enacted in the exercise of that power..." ~~See~~ at 132. Perhaps the reason that the Congress did not so rely was because our populace had not reached that mobility now present, nor were facilities, goods and services as readily moving ~~so readily found~~ in interstate commerce as they are today. ~~In any event the Act of 1875 was not predicated~~ It is said that the 1875 Act should have been ~~considered under~~ tested against the commerce power

And, as if to make certain its ground of decision, the Court included in its opinion this significant statement:

> "Of course, these restrictions do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the states, as in the regulation of commerce with foreign nations, among the several states and with the Indian tribes... In these cases, Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereto." at p. 18.

despite the fact that it was not predicated upon it. But this overlooks the fact that ~~neither~~ the hearings, debate and reports on the 1875 Act were devoid of any indication that discrimination was burdening or placing obstruction to the free flow of commerce ~~support~~ which would have been a necessary ingredient for the Court to consider the constitutionality of that Act under the commerce clause. We, therefore, conclude that the Civil Rights Cases have no ~~bearing~~ relevance to the decision here where the Act not only explicitly relies upon the commerce power but the record is replete with obstructions and restraints because of the discrimination found to be existing. ~~Prosecuted.~~ We now pass to that phase of the case.

~~6. The Testimony Before the Committees.~~

Many witnesses appeared before both the Judiciary sub-committees of the House and the Commerce Committee of the Senate. The gist of their testimony was that the growing public demonstrations in the civil rights field stem from attempts by Negroes to gain access to public ~~food~~ accommodations such as hotels, motels, restaurants, lunch counters, places of amusement, retail stores and the like; that the problem is not confined to any one portion of the country but is nation-wide in scope and is of almost incredible proportions. There were 639 demonstrations in 174 cities, 32 states and the District of Columbia in less than 80 days in 1963. Over three hundred of these were concerned with discrimination in places of public accommodation. Subsequent to that time the number stepped up in 1964 to where it ran into the thousands and included boycotts, picketing, mass demonstrations and violence. On several occasions the President himself was called upon ~~for~~ by local authorities for assistance and only his intervention presented additional ~~excess~~ rioting on a national scale. The effect of this continued action on several business conditions in these communities was direct and alarming. For example, in Birmingham retail sales were reported off 30%; there were more business failures than during the depression; the Federal Reserve ~~Board~~ Bank report on Birmingham showed department store sales down 15%. Similar experiences were related in the hearings

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6. The Basis of Congressional Action.

While the Act as adopted carried no Congressional findings the record of its passage through each House is filled with evidence of the burdens that discrimination by race or color places upon interstate commerce. This included the fact that our people have become mobile with millions of them traveling from state to state, a substantial numbers of whom are of the minority races; that Negroes in particular were subjected to discrimination in transient lodging accommodations, having to travel great distances to secure the same and often then not being able to obtain any whatever and having to call upon friends to put them up over night; [Senate Commerce Report 14-22] that the condition had become so acute that a special guide book for Negroes listing available lodging had been prepared which was "dramatic testimony of the difficulties" Negroes encountered in travel. [Senate Commerce Hearings, 692-694] These exclusionary practices were found to be nationwide, the Under-Secretary of Commerce testifying that there is "no question that this discrimination in the North still exists to a large degree" and in the West and Mid-west as well. [Senate Commerce Hearings at 735] Other testimony indicated a qualitative as well as a quantitative effect on interstate travel by Negroes. The former, of pleasure and convenience, was obvious impairing mobility in a serious manner while the quantitative effect on "interstate travel as far as the Negro community is concerned is very heavily burdened by the segregation..." [Senate Commerce Hearings at 744] This conclusion was not only that of the Under-Secretary of Commerce but of the Administrator of the Federal Aviation Agency who wrote the Chairman of the Senate Commerce Committee that it was his "belief that air commerce is adversely affected by the denial to a substantial segment of the traveling public of adequate and desegregated public accommodations" [Senate Commerce Hearings at 42.]

In addition the testimony indicated that business organizations are hampered in obtaining services from Negroes because of the discrimination, thus restricting the national labor force and prevents the allocation of national resources

See Hearings before Committee on Commerce United States Senate, 88th Cong. 1st Sess. on S. 1732 and its report No 872, supra; Hearings before Subcommittee of the Committee on the Judiciary United States Senate 88th Cong. 1st Sess. on S. 1731; Hearings before Subcommittee No. 5 House of Representatives 88th Cong 1st Session miscellaneous proposals regarding civil Rights, See No. 4 and Report of House Judiciary Committee 88th Cong. 1st Sess. No. 914 on H.R. 7152 cited [SHAWS IT]

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including the interstate movement of industries and the commercial expansion of business enterprise. It was also pointed out that conventions — both for business and pleasure - could not be held in some areas because of the discrimination in transient lodging accommodations. Senate Commerce Report at 17; Senate Commerce Hearings, 696-697; Additional Views Congressman McCulloch et al at p. 12 [attached to Report of House Judiciary Committee on HR. 7152] We shall not burden this opinion with further details since the voluminous testimony presents overwhelming evidence that discrimination by hotels and motels impedes interstate ~~comm~~ travel.

7. The Power of Congress ~~over~~ Over Interstate Travel.

The power of Congress to deal with these obstructions depends on the meaning of the ~~interstate~~ commerce clause. ~~Both~~ Its meaning was first enunciated ~~one hundred and~~ 140 years ago by the great Chief Justice John Marshall in Gibbons v Ogden, 9 Wheat 1. (1824) in these words: -

~~"The subject to be regulated is commerce; and...~~

to ascertain the extent of the power, it becomes The Counsel necessary to settle the meaning of the word... ~~Com~~ merce, undoubtedly, is traffic, but it is something more: it is intercourse... ~~It describes the commercial intercourse between~~ It has been truly said that commerce, as the term is used in the constitution, is a unit, ~~every part of which is indicated by the term.~~

"The subject to be regulated is commerce; and... to ascertain the extent of the power, it becomes necessary to settle the meaning of the word. The counsel for the appellee would limit it to traffic, to buying and selling, or the interchange of commodities... but it is

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something more, it is intercourse ... between nations and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse. [at 189]

"To what commerce does this power extend? ~~It has not been~~ The constitution informs us, to commerce "with foreign nations, and among the several states and ~~the~~ with the Indian Tribes."

"It has, ~~been~~ we believe, been universally admitted that these words comprehend every species of commercial intercourse ... No sort of trade can be carried on ... to which this power does not extend. [193-194]

"The subject to which this power is next applied, is "to commerce among the several states." The word 'among' means intermingled ... it may very properly be restricted to that ~~those~~ commerce which concerns more states than one ... The genius and character of the whole government seems to be, that its action is to be applied to all the ~~internal concerns of the nation and to those~~ internal concerns [of the nation] which affect the states generally; but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere, for the purpose of executing some of the several powers of the government." [at 195]

"We are now arrived at the inquiry,

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what is this power?

"It is the power to regulate; that is to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to the utmost extent, and acknowledges no limitations, other than are prescribed in the constitution. If, as has always been understood, the sovereignty of Congress ... is plenary as to those objects, the power over commerce ... is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at election, are, in this, as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied, to secure them from its abuse. They are the restraints upon which people must often rely solely, in all representative governments." at p. 197.

In short what the Chief is saying: the determinative test of the exercise of power by the Congress under the commerce clause is simply whether the activity sought to be regulated is "commerce which concerns more than one state" and, therefore, has a real and substantial relation to the national interest. Let us now turn to this facet of the problem.

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That the "intercourse" of which ~~the Great Chief~~ he speaks included the movement of persons through more states than one was settled as early as 1878 in Hall v DeCuir, 95 US 485. ~~Here~~ Louisiana required ~~colored passengers to be carried in the same cabin as white ones~~ all persons traveling in the state to be carried in the same cabin regardless of race or color. Chief Justice Waite in an opinion for the Court struck down this requirement as being a burden on commerce. ~~which was~~ He found commerce "immense" on the Rivers Mississippi ~~and~~ which ~~passed~~ which passed through ~~or~~ OR along the borders of ten different states and ~~described the~~ was thereof of national concern. If States were permitted to carry on their own rules as to segregation in commerce "could not flourish in the midst of such embarrassments." ~~at 488.~~ At 489. ~~Further on the opposite side of the coin~~ And in 1946 in Camineti v U.S. 242 US 470, Mr Justice Day held for the Court:-

> "The transportation of passengers in interstate commerce, it has long been ~~held~~ settled, is within the regulatory power of Congress, under the Commerce Clause of the Constitution, and the authority of Congress to keep the channels of commerce free from immoral and impurious uses has been frequently sustained, and is no longer open to question." at. p. 491.

Nor does it make any difference whether the transportation is commercial in character Id at 484-486. And in Morgan v Commonwealth of Virginia 328 US 373 (1946) Mr Justice Reed observed as to the modern movement of persons among the states:-

> "The recent changes in transportation brought about by the coming of the automobiles does not seem of great significance in the problem. Peoples of all races travel today more extensively

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Law in 1878 when this Court first passed upon state regulation of racial segregation in commerce." It but "emphasizes the soundness of this Court's early conclusion in Hall v DeCuir, 95 US 485." at p. 383.

Now has the interest of Congress in the correction of moral and social wrongs in interstate commerce been limited to segregation ~~on~~ interstate common carriers and the white slave traffic; but [it has extended the exercise of its power to gambling, ~~the lottery Cases~~, 188 US 321; Champion v Ames, to criminal enterprises, Brooks v United States, 267 US 432; to fraud in the sale of products, FTC v Mandel Bros, 359 US 385, 316 US 149; to fraudulent ~~securities~~ security transactions, SEC v Ralston Purina Co, 346 US 119; to misbranding of drugs, Weeks v United States, 245 US 618 (1918); to wages and hours, United States v Darby, 312 US 100 (1941); to ~~labor relations~~ members of labor unions, NLRB v Jones and Laughlin 301 US 1, 1937); to ~~farms~~ crop control, Wickard v Filburn, 317 US 111 (1942); to discrimination against shippers, U.S. v Baltimore and Ohio, 333 US 169; to small business, Moore v Mead's Fine Bread Co, 348 US 115; re-sale ~~pricing~~ price maintenance to professional football, Radovich v Natl Football League 352 US 445; racial discrimination in employment Continental Airlines v Colorado Anti Discrimination ~~Commission~~, 372 US 714.

It is said that the operation of the motel here is of a purely ~~Now is the Congress precluded from regulating local activities~~ local character. But assuming this to be true still the ~~in its protection and promotion of interstate commerce~~

the power of Congress to promote interstate commerce also includes the power to regulate the local incidences thereof which might have a substantial and harmful effect upon that commerce. This would include local activities in both the state of origin and destination. As this Court said in Labor Board v Jones and Laughlin Steel Corp, supra:

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> "Although activities may be intrastate in character when separately considered, if they have such a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions, Congress cannot be denied the power to exercise that control." at p. 37

As was aptly said in United States v Women's Sportswear Mfg Assn 336 US 460, 464 ( ): "If it is interstate commerce that feels the pinch, it does not matter how local the operation which applies the squeeze." As Chief Justice Stone put it in United States v Darby, supra:

> "The power of Congress over interstate commerce is not confined to the regulation of commerce among the states. It extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate interstate commerce. See McCulloch v Maryland 4 Wheat. 316, 421."

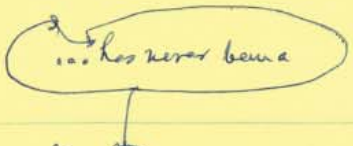
It follows that Congress may - as it has - prohibit discrimination ~~against~~ by motels against all travelers, whether they be ~~transients~~ journeying between more than one state or not. See Georgia v United States, 201 F. Supp. 813, affirmed 371 US 9.

Nor does the ~~Civil Rights~~ Act deprive appellant of liberty or property under the Fifth Amendment. The commerce power invoked here by the Congress is a specific and plenary one authorized by the Constitution itself. The only question is whether Congress acted arbitrarily and capriciously in finding that racial discrimination by motels affected commerce and whether the means used to ~~eradicate~~ eliminate such an evil are reasonable and appropriate. If they are appellant has no 'right' to select its guests as it sees fit, free from ~~governmental~~ governmental regulation. ~~See Lochner v Illinois, 198 US 113 ( ).~~

Indeed, there is nothing novel about such legislation. Thirty two states now have it on ~~the~~ their books either by statute or executive order and many cities provide such regulation. [Some of these acts go back four score years.] It has been repeatedly held by this Court that such laws do not violate the due process clause of the 14th Amendment. Since that time this Court has specifically approved such legislation against that attack. See Railway Mail Association v Corsi, 326 US 88 (1945); ~~District of Columbia v John R Thompson Co, 346 US~~ Continental Air Lines v Colorado Anti Discrimination Commission, supra; Bob-Lo Excursion Co v Michigan 333 US 28 (1948). "The authority of the Federal Government over interstate commerce does not differ," it was held in United States v Rock Royal Co-op, 307 US 533 (1939), "in extent or character from that retained by the states over intrastate commerce". at 569-570. ~~Only recently in Ferguson v Skrupa, 372 US 726, 732 (1963)~~ Also see Berles v Willingham, 321 US 503 ( ).

It is doubtful if in the long run ~~the~~ appellant will suffer economic loss as a result of the act. Experience is to the contrary where discrimination is completely obliterated as to all public accommodations. But whether this be true or not is of no consequence since this Court has specifically held that though a "member of a class suffer

Perhaps the first such holding was in The Civil Rights Cases, supra, themselves, when Mr Justice Bradley for the Court found that innkeepers, "by the laws of all of the States, so far as we are aware, are bound ~~to the extent of their facilities~~ to furnish proper accommodations to all unobjectionable ~~guests~~ persons who in good faith apply for them." at p 25.



~~economic loss~~ economic losses not shared by others" ~~is not a~~ barrier" to such legislation. Bowles v Willingham, supra, at 518. Likewise in a long line of cases this Court has rejected the claim that the prohibition of racial discrimination in ~~business~~ public accommodations interferes with personal liberty. See District of Columbia v John R. Thompson Co, 346 US 100, and cases there cited, where we concluded that Congress had delegated law making power to the District of Columbia "as broad as the police power of a state" which included the power to adopt "a law prohibiting discrimination against Negroes by the owners and managers of restaurants in the District of Columbia." Neither do we find any merit in the claim that the Act is a taking of property without just compensation. The cases are to the contrary. See Omnia Co v United States, 261 US 502 (1923); Legal Tender Cases, 12 Wall. 457, 551; ~~United States~~ United States v Central Eureka Mining Co, 357 US 155. ( ).

We do not find merit in the remainder of appellants' contentions, including that of "involuntary servitude." As we have seen thirty two states prohibit racial discrimination in public accommodations. These laws ~~are~~ but codify the common law inn-keeper rule which long predated the 13th Amendment. It is difficult to believe that the amendment was intended to abrogate this principle. Indeed, the opinion of the Court in The Civil Rights Cases is to the contrary as we have seen, it having noted with approval the laws of "all of the states" prohibiting discrimination. We could not say that the requirements of the Act in this regard are in any way "akin to African slavery."

We, therefore, conclude that the action of the Congress in the adoption of the act as applied here is within the power granted it by the commerce clause of the Constitution, as interpreted by this Court for 140 years. It may be argued that Congress could have pursued other methods to eliminate the obstructions it found in interstate commerce caused by racial discrimination. But this is a matter of policy that rests entirely with the Congress not with the courts. How obstructions in commerce may be removed - what means are to be employed - are within the sound discretion and wisdom of the Congress. It is subject only to one ~~caveat~~ caveat that the means chosen by it must be reasonably adapted to the end permitted by the ~~Constitution~~. ~~We cannot say that its choice is not adapted in pursuance.~~ ~~Here that choice has been found in practice.~~ ~~The Constitution requires no more.~~

~~affirmed~~

The Constitution. We cannot say that its choice here was not so ~~found~~ adopted. The Constitution requires no more.

Affirmed.