

ATLANTA MOTEL v. UNITED STATES. 9

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 thereof. [At 18.]

The fact that the *Civil Rights Cases* are inapposite here was made perfectly clear by this Court in *Butts v. Merchants & Miners Trans. Co.*, 230 U. S. 126 (1913), where it was contended that 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 provisions considered in 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 enacted in the exertion of that power . . ." At 132.

← Perhaps the reason that the Congress did not so rely, was → because our populace had not reached its present mobility, nor were facilities, goods, and services circulating as readily in interstate commerce as they are today. It is said that the 1875 Act should have been tested against the commerce power despite the fact that the Congress did not predicate it thereon. But this overlooks the fact that the hearings, debate and reports on the 1875 Act were devoid of any indication that discrimination was burdening or obstructing the free flow of commerce 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 relevance to the decision here where the Act not only explicitly relies upon the commerce power but the record is filled with testimony of obstructions and restraints resulting from the discriminations found to be existing. We now pass to that phase of the case.

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