

This is a declaratory judgment action, 28 U. S. C.

§ 2201 and § 2202, attacking the constitutionality of Title II

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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. ^{However, it} ~~it~~ refused to rent rooms to a member of

the Negro race ^{both} prior to the enactment of the Act ^{as well as} ~~and did not~~

~~thereafter, In addition to intend to do so thereafter. It filed the suit seeking~~ declaratory

^{The complaint sought} relief, an injunction restraining the enforcement of the Act

and damages against respondents based on allegedly resulting

irreparable injury, ^{in the event that compliance was required,} A three judge District Court, ~~required~~

^{superseded} under 28 U. S. C. 2282 as well as § 206 (a) (b) of the Act,

sustained its validity and on the counterclaim of the

respondents issued a permanent injunction restraining

appellant from continuing to violate the Act, ^{which remains in} On order of Mr. ^{Effect on order of Justice Black,}

~~Justice Black, acting as Circuit Justice, this injunction~~

~~remains in effect during this appeal.~~ We affirm the judgment.

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. 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. Appellant solicits patronage from outside the State of Georgia through various national advertising media, including magazines of national circulation; it 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 thereof. ^{A prior to the Act} The motel had followed a personal practice of not renting rooms to Negroes, ^{and it alleged that} which it intended to continue, ^{that policy.} ~~and filed this suit to prevent the enforcement of~~ ^{In an effort to protect that} ~~the Act against its policy.~~ ^{policy this suit was filed.}

The appellant contended 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 that it would result in taking of liberty and property without due process and ^{devote it to} ~~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, ^{it was claimed} 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 unavailability to Negroes of adequate lodging accommodations interfere significantly with interstate travel and that Congress has power to remove such obstacles ^{and restraints} under the commerce clause. 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 ~~the~~ Amendment; the involuntary servitude claim fails appellees say

because the Thirteenth Amendment not only proscribed human bondage, ^{as was claimed here,} to which appellants claim that they were being the subject of, but the removal of all disabilities of servitude then ^{imposed upon Negroes} ~~widely accepted~~ and which branded them

~~Negro as an inferior human beings;~~ ^{the claim is, therefore entirely frivolous.}
~~for appellants they appellants demand.~~

At the trial the ~~appellees offered evidence that~~
~~appellant had refused, after passage of the Act, to~~
~~accommodate Negro guests because of their race and~~
~~color~~ appellant offered no evidence, submitting the case

on the pleadings, admissions, and stipulation of facts; ^{however,}
~~appellees proved up the refusal of the motel to accept transient guests~~ ^{after the passage of the Act,}
The District Court sustained the constitutionality of the
sections of the Act under attack [§ 201 (a) (b) (1) and (c) (1)].

A permanent injunction was issued on the counterclaim of the appellees. 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 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."