HISTORY

OF THE

ANTI-SEPARATE COACH MOVEMENT

OF KENTUCKY.

CONTAINING HALF-TONE CUTS AND BIOGRAPHICAL SKETCHES OF SOME OF THE MOST ACTIVE WORKERS AGAINST THE SEPARATE COACH LAW, WITH A FULL AND FAIR PRESENTATION OF THE MOVEMENT OF THE OPPOSITION TO THE MEASURE—STATE CONVENTION AT LEXINGTON AND ITS PROCEEDINGS—SYNOPSIS OF SPEECHES MADE AGAINST THE BILL—THE LEGAL PHASE AS VIEWED BY SOME OF THE MOST ABLE LAWYERS OF THE COUNTRY. THE INTRODUCTION OF THE BILL IN THE SENATE—ITS LIFE, ETC.

THE CASE IN FULL OF W. H. ANDERSON VS. L. & N. RAILROAD COMPANY.

PUBLISHED UNDER THE AUSPICES OF THE

State Central and Executive Committees

OF KENTUCKY.

EDITED BY REV. S. E. SMITH.

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ADDENDA.

Page 12 should read:

"Such a recommendation would be made and offered no suggestions or objections until Mr. James W. Woolfolk, feeling a deep concern in the matter, went before the Committee on Thanksgiving Day, 1891, and, on behalf of his race made an earnest and able appeal for justice and right in the matter, asking them not to recommend the passage of such an unjust and infamous law." etc., etc.

Half Tone Photographs.

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MISCELLANEOUS.

Group of State Central Committee.
Group of State Executive Committee.
Group of Committee on Correspondence.
Group of Local Committee of Frankfort, Ky.
Interior "Ladies' Coach."

PREFACE.

In presenting this pamphlet to the public, we lay no claim to literary effort. But have endeavored to give a succinct history of the "Anti-Separate Coach Movement." Neither time nor space will permit of our publishing other than facts briefly compiled, with no effort toward literary pretensions. We have been compelled to make our biographical mentionings brief and to the point, realizing that this is not the time to parade individual achievement and high attainments, but rather to blend our efforts toward placing ourselves intelligently before the thinking and justice-loving people of our country. Those who are mentioned herein are mentioned on account of their activeness in and close identificatioa with the movement of the opposition. Others justly deserving and entitled to recognition on our pages have been omitted on account of circumstances over which the publisher has had no control. We hope that this little book will find a friend in the home of every Negro in the land, for it is to their interest that it is dedicated.

Z. W. MITCHELL, Publisher, Evansville, Ind.

INTRODUCTORY.

Realizing the necessity of facing this important issue with calm deliberation, premeditated thought and convincing argument, we have caused this little book to be published, which speaks with accuracy and tells in thundering tones, that will go rolling on down to the last syllable of time, of an injustice perpetrated upon an inoffensive, law abiding and a progressive people. The passage of a "Separate Coach Law" by the Legislature of Kentucky was an uncalled for, unjust and prejudiced piece of class legislation. There never was a necessity for the placing of such a law on the statute books of our state. The unfortunate circumstances which led to a demand for the law were such as the good people of both races deeply deplored. On an excursion train en route from Louisville to Frankfort, a white and a colored rough became involved in a difficulty. With that impetuous haste and hot-blooded passion to which Kentuckians are often too quick to yield, they took an appeal to arms. In the excitement of the affray, with reason dethroned and passions raging, the colored man, in shooting at his opponent, missed his mark and seriously but not fatally shot an innocent white woman. The white newspapers of the state were filled with the most exaggerated and magnified account of the details of the affair. Popular indignation was aroused. That an innocent white woman should be shot by a colored rowdy was regarded as a crime for which the entire colored race must suffer punishment. At once the white newspapers began a howl and cry for the separation of the races on the trains. Unmindful of the fact that for years both races had been riding together without clash or friction, unmindful of the fact that it was an unfortunate, lawless occurrence which all lovers of peace, regardless of race or color, deplored, blinded by the excited prejudice of the hour, they made their unfair and narrow-hearted demands.

The influence of the fair white womanhood of the state was called to the rescue to lend their beauty and charms to the ignoble effort.

One man had sinned—thousands of innocents must pay the penalty. When a white man, shooting recklessly at another white man, in a dense crowd of men, women and children, at a depot in Frankfort, not only was successful, but also wounded two or three innocent bystanders, the white press was silent as the grave. When, at another time, on a county court day, on the main street of the capital city, a white man attacked one of his own race, who was unarmed and physically his inferior, and regardless of the surging mass of humanity around, shot him to death, injuring three others, no voice of protest was heard.

Excuses of extenuating circumstances were made for their crimes—the individual was held responsible—the verdict of the court was accepted—the penalty was considered paid—justice was executed.

When a white peddler and a colored man engaged in a fight in a small town, and the latter beat the former up quite badly, and, an enraged mob, without awaiting the result of his injuries, seized upon the colored man and hanged him upon the night of the same day that the peddler was selling his wares in the same locality, not even an indictment was found by the grand jury.

But, in the case previously referred to, although the colored man was tried, convicted and sentenced, the individual punishment was not sufficient. It must go further. Innocent men and women must suffer. The entire colored race must pay the penalty, regardless of the fact that the good people of the Negro race (and there are such, notwithstanding reflections to the contrary), condemned the crime and denounced the criminal. Yet this did not in the slightest degree suppress the flames of white resentment and hatred. To palliate for a momentary prejudice, the wheels of progress must be turned backward and a legislation enacted in keeping with the dark period of anti-bellum days. Accordingly, when the Legislature assembled in December, 1891, a bill was presented by Senator Tipton A. Miller, of Calloway County, having for its purpose the provision of separate coaches for white and colored passen-

gers on all railroads in the State. The protests of the broad-minded and large-hearted patriotic men of that legislative body availed but little and did not stem the tide of blinded color prejudice. The law was passed over the tearful and earnest protests of the better and therefore larger element of the negro race. That Legislature has gone, and its record is a matter of public history subject to condemnation or approval. We are commanded to say nothing but good of the departed; therefore we refrain from comment upon its action in this piece of legislation, except to remark that it disgraced the State by placing upon an inoffensive and harmless race of people an odious law, which impartial history can but regard as desperately impolitic, maliciously uncharitable and glaringly inhumane.

When prejudice shall have been supplanted by reason; when the "Golden Rule" shall actuate the hearts of all men; when the "better angels" shall influence the minds of true Kentuckians, then will the surviving members of that Legislature realize that they have perpetrated an injustice and a wrong upon a generous and noble people, and for that wrong they will answer to their conscience, to their religion and to their God.

Among the bravest of American soldiers were the Negroes who went forth upon the battlefield and fought for their country, for their freedom and for their rights. Among those who fell pierced by the enemies' bullet, breathed away their lives for the sake of right and justice, were our Negro volunteers. The blood of our dead and dying cried aloud to Heaven for freedom, liberty and justice, for a long oppressed and enslaved people. Heaven heard the cry, and through the omnipotent hand of God directed the blow that saved the "Union" and gave freedom to over four million slaves. With our freedom came the guarantee of protection, "equal rights to all, irregardless of "race, color or previous condition of servitude."

Article 14, Sec. 1, of the federal constitution, provides: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or

immunities of citizens of the United States; nor shall any State * * * * deny to any person within its jurisdiction the equal protection of the laws."

The said bill violates the foregoing provision, in that it "abridges the privileges and immunities of citizens of the United States" and denies to them "equal protection of the laws."

It discriminates against the colored race. The Supreme Court so held in 17 Wallace, page 445 and the Federal Court (inferentially) so held in 13, Federal Reporter, page 359.

In 101 U. S. p. 22, and also 109 U. S., p. 3, the subject is discussed, but the question is not decided.

In 22 Fed. Rep., p. 843, and 23 Fed. Rep. pages 318 and 637, it is held that the common carrier (R. R. Co., etc.) may make such a regulation. But that is widely different from the passage of a State law requiring such a regulation.

Article 1, Sec. 8, provides that "Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes."

It has been repeatedly held by the Supreme Court that, under the foregoing provision, the regulation of commerce between the States is exclusively within the power of Congress. No State can directly or indirectly infringe that power of Congress.

The transportation of passengers from one State to another is commerce between the States within the meaning of said Sec. 8.

The "Separate Coach Bill" is a regulation of that commerce and is therefore void, because it violates said Sec. 8 of the Federal Court.

Of this last proposition, we regard the Supreme Court decision in 95 U. S., p. 495, as conclusive.

Since this time the Kentucky Negroes have been rising from the low and depressing depths of degradation to which the system of American slavery had reduced them. Investigation and close research fail to disclose a parallel in the world's history to the wonderful progress and rapid strides of the Negro within the few brief years of opportunity and freedom. A glance at the Negro's advancement and progress within this the grand Commonwealth of Kentucky, the birthplace of

our immortal Lincoln, the home of the Clays, the Marshalls and the Breckinridges, will speak in accents loud of their untiring efforts to surmount the lofty hill-tops of accomplishment, high achievement and honor. Through the dark clouds of opposition and oppression we view 300,000 Negro inhabitants, 65 per cent. of whom are aspiring to reach the highest plain of citizenship and civilization. Among them are 1,300 ministers, who are striving to point their hosts to Heaven and lift them from their former condition of depravity, ignorance and superstition. Schools and colleges are to be found in large numbers throughout the entire State; 1,179 teachers are employed in our public schools to train the mind of the younger generation to think, to act and to do; 1,109 school houses afford shelter to 55,493 pupils, with a school fund of $269,349.64 appropriated for the maintenance of our public schools in this State. Our citizens pay taxes on $7,000,000 worth of property, having $305,000 invested in school property, $20,000 in school furniture, besides many thousands of dollars in churches and other charitable institutions throughout the State. Besides this our private schools and colleges rank among the foremost in the land. Sixty lawyers and as many doctors represent us in the professional field, besides eight reputable newspaper editors and a score of other professional men and women.

In the face of all this we felt to congratulate ourselves on the happy condition of affairs. But, alas! just as the fire of higher aspiration had taken possession of our young men and women and the dark clouds of oppression and serious obstacles seemed to be rising before their gaze, and the brilliant sunlight of civilization and higher attainment beckoned them onward and upward, the fire of their aspirations was quenched, the sunlight of their future darkened by the passage of a hellish, infamous and unjust "Separate Coach Law!" Yet, we are asked to sit supinely down and content ourselves with this degrading and demoralizing condition of affairs. Are we to do so? The answer comes back from every race lover in the land, No! No! No! To attempt to do so the blood of our fathers, in the silent watches of the midnight hour, would cry out in tones that would wake the sleeping millions. No, a thousand times, no! As citizens we mean to fight this unjust law to a finish. Future prosperity depends on our protecting our rights,

guarding our manhood and womanhood, and defending that which belongs to us. We appeal to every Negro man and woman in the State of Kentucky, yes, every Negro boy and girl, to do something to assist in this great struggle for right and justice. We hope that every colored man throughout the land will buy this book, and by doing so assist us in molding public sentiment in favor of a repeal of this disgraceful and dehumanizing Separate Coach Law. At the same time it will be contributing to the separate coach fund. Besides this, help us place it in the hands of the white people both north and south, that they might be convinced of the injustice of such a law. We appeal to the chivalry of the noble-hearted white people of Kentucky that they will aid us in our efforts to rid ourselves of this barrier to our progress.

In the name of religion we come and ask that the followers of the lowly and despised Nazerine, whose home while on earth was among the poor and humble, be not silent to the great cause of humanity. It is the duty of the pulpit to "cry aloud and spare not," and we ask that the white clergy become more aroused to the duties of the hour and make no compromise with injustice and oppression. In the name of common justice; in the name of charity; in the name of universal brotherhood; in the name of the truth that "of one blood hath God made all nations of the earth," we call upon humanitarians and cosmopolites everywhere to aid us in striking a blow at that which takes from us our rights and robs us of our liberties. We seek to rise. We wish to ascend the ladder of progress. We would seek to meet bravely the stern duties of life. We have suffered long and patiently. We seek for a fair and equal chance in the race for advancement. Our eyes are turned not to the setting but to the rising sun. We plead guilty to the charge of having been held in a helpless, merciless and hellish bondage for nearly two and one-half centuries. With gratitude, with hope, with courage, we seek to redeem the wrongs which the past has inflicted upon us, and we go forward to the future "with malice towards none, but with charity for all." Will that great and powerful race which held us for so long in subjection and slavery, which inflicted upon us the bans of ignorance and superstition, which sought to rob us of all that was grand and ennobling, which endeavored to

crush out every vestage of our manhood and every sentiment of race pride, will that race arise to the greatness of the hour and give us simple justice?

Will they refuse sympathy to the fallen or aid to those who are seeking to rise?

Will the great State of Kentucky, famous for her Clays, Crittendons, Marshalls, Menifees, Blackburns, Breckinridges and Carlisles, go forth upon record before the world as fostering the spirit of color caste and milicious race prejudice? Does not a race which has enriched our soil with her blood, watered it with her tears, and which has given the vigor and strength of her youth to build up our country's resources, deserve better treatment? Does not the unselfish patriotism of such a race call for true and just recognition? We are conscious of our bright record. We feel that a wrong has been done us. It must be righted. We have to take up the gauntlet of moral warfare, and do not intend to lay it down until victory shall be ours.



REV. S. E. SMITH. D.D.,
Owensboro, Ky.

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CHAPTER 1.

THE INCIDENT LEADING UP TO THE FIRST DEMAND FOR SEPARATE COACHES—THE INITIAL STEPS TAKEN BY THE CITIZENS OF FRANKFORT—THE FIRST COMMITTEE APPOINTED—CONVENTION OF PROMINENT MEN BEFORE THE GOVERNOR. SYNOPSIS OF SPEECHES MADE AND RESOLUTIONS PRESENTED—GOVERNOR BROWN'S REPLY.

The wild clamor of an ignorant, prejudiced and bigoted white press of the State of Kentucky, following closely behind the unfortunate and deplorable incident on a railroad train for which the colored race was in no way responsible, did not fail to bear fruit. Great pressure was brought to bear upon the railroad commissioners for a separation of white and colored passengers on railroad trains to such an extent that at their regular session in the fall of 1891 the matter was thoroughly discussed. Not long afterwards they had a conference with Mr. J. W. Woolfolk, of Frankfort, informing him that such a matter was under consideration and that it might be possible that they would recommend such a law, however, stating to him that they were open to conviction and any suggestions that any of the colored citizens might have to make they would be pleased to hear. Had the protests, which have since been made against the measure been made at that time, possibly such a disgraceful law would have never been placed on the statute books of our State. But the citizens having implicit confidence in the members of the committees, which were composed of the following persons:

HOUSE COMMITTEE.

Henry Kremer, chairman; John D. Woods, Waller Sharp, M. Ferguson, B. B. Hensley, Thomas S. Pettit, E. M. Dickson, W. W. Ayers, B. F. Bennett.

SENATE COMMITTEE.

James H. Mulligan, chairman; Henry George, J. W. McCain, John McCann, H. H. Stewart.

Failed to attach any importance to the vague rumor that

concern in the matter, went before the committee on Thanksgiving day, 1891, and on behalf of his race made an earnest and able appeal for justice and right in the matter, asking them not to recommend the passage of such an an unjust and such a recommendation would be made, and offered no suggestions or objections until Mr. James W. Woolfolk, feeling a deep infamous law. However, his remonstrances were fruitless, and when their report was presented to His Excellency, the Governor, John Young Brown, it contained the dreaded and prejudiced recommendation that colored and white passengers be separated on all railroad trains. As soon as this became known a mass meeting was called by the colored citizens of Frankfort, Ky., with a view of taking active steps against the measure and prevent, if possible, its passage. On meeting in the First Baptist Church Wednesday evening, December 9th, 1891, Prof. C. C. Monroe, of the State Normal School, was elected chairman and Dr. E. E. Underwood secretary. Rev. Eugene Evans presented a series of resolutions, recommending the appointment of a committee consisting of one from each of the leading cities of the State, to wait upon the Governor December 24th, 1891, and, if possible, secure his influence against the bill.

The following committee was elected on correspondence:

C. C. Monroe, chairman; E. E. Underwood, M. D., secretary; Rev. Eugene Evans, Wm. H. Mayo, Edward Lane, John H. Jackson, Rev. Wm. A. Creditt, Rev. Jas. M. Turner, Rev. Fletcher.

A collection amounting to $2.81 was taken up to defray the expense of communicating with the leading men of the State on the subject, which was promptly done through the following circular:

Frankfort, Ky. Dec. 11th, 1891.

Dear Sir:

We invite your careful attention to the following resolutions, adopted unanimously at a mass meeting held in this city Wednesday evening, December 9th:

Whereas, The railroad commissioners of the State of Kentucky have recommended to the Governor of this Commonwealth the propriety of establishing a separate coach system for whites and blacks; and,

Whereas, There are twelve hundred colored teachers, one thousand colored preachers and a large number of business men in all parts of the State, who, both by precept and example, are seeking to elevate

their race, to ameliorate their condition, and to place them upon a higher moral and intellectual plane, who constitute a class that deserve better treatment than to be herded indiscriminately with the rough and uncouth element of our race; and especially since that action was taken by the railroad commissioners before this class of citizens had an opportunity to be heard in their own behalf; therefore be it

Resolved, That we request the leading cities of the State to send one representative each, thus forming a committee to wait upon the Governor Thursday, Dec. 24th, at noon, for the purpose of suggesting such modification of the proposed law as will meet our approbation.

The time is ripe and the hour is now when Afro-Americans throughout the State should take some action to save the race the embarrassment and discrimination which such legislation would place upon us. We ask your co-operation in this work. Let us unite our voices as the voice of one man against any proposed class legislation.

Please have this matter brought at once before the citizens of your city.

Yours for the Race,

C. C. MONROE, Chairman.
E. E. UNDERWOOD, M. D., Secretary.
REV. EUGENE EVANS.
WM. H. MAYO.
EDWARD LANE.
JOHN H. JACKSON.
REV. WM. A. CREDITT.
REV. JAS. M. TURNER.
REV. FLETCHER.
Committee on Correspondence.

Going Refore the Governor

On December 24th, 1891, in response to the call from the Committee on Correspondence, a large and representative body of colored men met in Frankfort, Ky., the capital of the State, and entered a firm and manly protest against the proposed enactment of a "Separate Coach Law" having for its purpose the separation of white and colored passengers on all railroad trains in the State.

The meeting was called to order by Prof. J. H. Jackson, president of the State Normal School, and at his suggestion Prof. C. C. Monroe, of the Normal School, was eleceted chairman and spokesman of the delegation and Dr. Underwood secretary.

Gov. Brown received the delegation at his office about noon, and after being introduced by Prof. Jackson, Rev. C. H.

Parrish, president of Exstein Norton University, read a series of resolutions expressing the sentiment of the better class of colored citizens in Kentucky.

Among Others were the Following:

Be It Resolved, That the late recommendations of the railroad commissioners of the State of Kentucky in reference to the separate coach laws to the General Assembly and to His Excelleney, the Governor of our Commonwealth are to all intents and purposes against the liberal spirit of our new constitution, against the laws of our State and country and against that praiseworthy attitude in which their brotherly white citizens have been ever wont to hold themselves toward the colored citizens of this State.

And it is also patent that the colored citizens in this State have never assumed an offensive and obtrusive demeanor toward their white brethren, at the same time there has been for the most part an intimate relation between them on all public, political and economic questions relative to the general welfare of the State. That the colored citizen has quietly accepted the situation growing out of and a natural consequence to his former condition without the least sign of rebellion or manifest discontent.

That they have providentially thrown themselves upon the unalterable verdict of the times to await its just decision without obtrusiveness and aggression.

That there has never been any race war or friction in this State, due as much to the statesmanlike acceptation of the race issue by the colored citizen as to the manly, outspoken conservatism of the whites on all questions of this nature.

That the bond of union so intimately formed should not in consequence of some misapprehension be so ruthlessly severed without a careful, minute and accurate investigation of the causes therefor.

That the origin of this proposed enactment is certainly unfounded. The difficulty is said to arise from a certain shooting affray upon some railroad line in which a colored man is said to figure, but upon investigation and upon statements made in open court by the plaintiff herself, it is undoubtedly certain that the offense was committed by some white man.

That to pass a law at this juncture founded upon a desire to rectify such conduct upon the roads of public carriers would jeopardize not only the interest of such public carriers, but unjustly militate against the steadily increasing integrity of the colored citizen in the law of the Commonwealth such as is set forth in our new bill of rights, Sec. 1, Art. 1, and also disturb that condition of loyalty for which she is already famous.

That we look to the white people of our State as the most ardent defenders of our liberties, believing that in them since there is no representation of our own people in any branch of our government that

they will not approve so disastrous a measure so prolific of evil and audaciously undemocratic.

Further, That the passage of such an enactment will be directly against the advance, learning and intelligence of the State to say nothing of our constitutional guarantees set forth in our new constitution in Sec. 1 of the bill of rights. That all men are by nature free and equal and for which we so overwhelmingly voted.

That we are not ignorant of the law of the land set forth in Art. 14, otherwise known as the fourteenth amendment to the constitution of the United States, which is a constitutional guarantee that there shall be no discrimination between citizens of the United States except by due process of law.

Further, That it is our experience that to foster an aggrieved class within the confines of our Commonwealth does not ensure the interests of that class in the State's prosperity nor administer to that degree of loyalty requisite for citizens to hold.

That to legislate against us is at once the surest way to destroy allegiance and to rent asunder those long standing bonds of unity between the races which has so long been our boast. The amicable relation thus far existing between the races has been the source of bringing into our State the intelligent of our race to settle and cast their lot amongst us in the cause of education and general improvement of our own people.

That to take any steps against our liberties which at best are not too liberal will impede our individual progress and bar proficient immigration and stay the wheels of development.

Therefore, we cheerfully suggest to our chief magistrate these humble petitions, begging that no recommendation be made in your first annual message that will curtail our liberties and lessen the privileges and immunities which the law has so far extended to us.

C. C. MONROE, Chairman of Delegation.

C. H. PARRISH, Chairman Committee on Resolutions.

Henderson, Ky., Dec. 22, 1891.

To His Excellency, Governor John Y. Brown:

Dear Sir—We, a part of the citizens of your resident city and county, in mass meeting, having profound regard for yourself and position, and believing you to be the Governor of the whole people, and are satisfied that you know an unjust law, and as the relation that exists between the best element of the white and colored races is friendly, present constitution of Kentuparate car law" recommended by the to the best interests of both raed, to be both unjust and detrimental railroad commissioners, if passees and also in direct opposition to the we therefore believe that "the secky.

And being citizens of Kentucky we earnestly, in the name of justice, law and God, protest against the infamous class legislation. We therefore ask Your Excellency, in the name of those we love, to ignore such a bill should it come to you for your signature. We also demand those rights given us under the great constitution of Kentucky that there shall be no special privileges given or denied on account of race, color or previous condition.

Hoping that our petition may receive a favorable consideration at your hands, we remain

Yours respectfully,

Rev. R. H. C. Mitchell, W. T. Gaines, A. H. Cabell, Rev. P. H. Kennedy, Rev. H. W. Smith, Julius Sneed, Riley Crombaker, Ed. McBride, Steve Swope, Dr. S. A. O'Niel, W. H. Ferguson, Alex Sarr, J. W. Weston, Manuel McClure and hundreds of others, per J. M. Mundy.

Many other able and scholarly resolutions were sent in which time nor space will not allow us to publish. Among the most weighty ones was a set of resolutions from the ladies of Danville, Ky., signed by the following persons:

M. B. Wallace, N. B. Smith, Emma Shepherd, Lena B. Tibbs, Susie D. Henry, Esther Higgins, Mary L. Tibbs, Pauline Langford, Anna Arthur, Mary Jones, Lizzie Shirley, Delia Bonda, Bettie Graham, Sophia Craig, Martha Green, Mary Lizzie Tibbs, Maria Green, Georgia McGlothen, Sarah Hansford, Belle Irvin, Janie Lee, Susie Lee, Amanda Combs, Mary E. Mitchell, Millie Toliver, Julia Murphy, Estella Murphy, Emma Douglass, Lizzie Green, Eliza Haggins, Bettie Ricketts, Ann Jane Daram, Susan Davis, Maria Bell, Pauline Thompkins, Sallie Richardson, Eliza Rogers, Susie Beaty, Eliza Rowe, Sassie Cowan, Ida Pan, Mary Susan Toliver, Mattie Carr, Didama Rowe, Sallie Nobble, Belle Cowan, Josie Miller, Mamie Washington, Fannie Parr, Rachel Moore, Julia Kincaid.

A very able set of resolutions were sent in by the colored school teachers of Louisville, including those of the State University, which not only reflected credit upon those writing them, but on the entire race. They were signed as follows:

Frank L. Williams, A. E. Mayzeek, K. W. Jordan, L. N. Duball, James E. Simpson, C. H. Houser.

Prof. Monroe was next introduced, and delivered a forcible address, giving cogent reasons why such a law should not be passed:

In addressing His Exellency he said:

As the representative of the gentlemen here assembled, who in truth are the representatives of more than 300,000 of the population of the Commonwealth of Kentucky, I desire to say that we deeply deplore the condition of affairs that makes our presence here a necessity.

To you, sir, as the executive head of our State government, we have come as law-abiding citizens to pray the intervention of your authority in the behalf of justice and right. In your official capacity as Governor of the great Commonwealth of Kentucky it is not unknown to you that by act of the railroad commission it is proposed to provide, by

statutory enactment, separate coaches for such of Kentucky's citizens who, by the mere accident of birth, happen to wear a black skin.

We have been taught to believe, and to act upon the belief, that all laws, whether statutory or constitutional, written or unwritten, have or should have their genesis in fundamental principles which themselves are based upon the single idea of justice to all men. That the proposed law is unjust in principle and without the sanction of reason or judgment is clear from the following reasons, to-wit:

That the colored people owned $10,500,000 worth of property in Kentucky; they were educating a school population of 114,130 children; they had 1,225 teachers, of whom 50 per cent. held first and second class certificates; there were three colleges, one normal and industrial school, eight high schools, one school of law, one school of medicine, and one school of theology; there were among the colored people of Kentucky 50 physicians, 25 lawyers, 1,225 teachers, 1,200 ministers and 6 journalists.

Many colored firms in the State do a business annually of from $1,500 to $3,000; farms of from 50 to 300 acres were owned by them in nearly every county in the State.

They had also organized many building associations and were improving their condition in education, in the accumulation of property, and in moral training as rapidly as any other class of people under the circumstances.

He did not believe the conditions spoken of would warrant the passage of a separate coach law. It would tend to check this rapid advancement and force the better class of colored Kentuckians to seek homes in a more congenial clime, where their civil rights were guaranteed and their manhood respected.

He regarded the enactment of such a law to be the worse species of class legislation which he did not believe the better class of white people in Kentucky would ever sanction.

He closed by declaring that if such a law be not passed and if the better class of colored citizens be not humiliated by such a law he stood ready to pledge the lives, fortunes and sacred honor of every respectable colored man in defense of the free institutions of the Commonwealth, and especially in defense of its chaste womanhood, regardless of color.

Prof. Monroe's address made a good impression upon the Governor, who complimented it very highly.

In reply, Gov. Brown expressed himself as being agreeably surprised to see such a large and so representative a body of colored citizens present, and congratulated Kentucky upon having such a class of intelligent, upright colored citizens within her borders.

The Governor said that those present had a perfect right to protest against this or any other kind of proposed legislation, and as it was a matter for the legislative rather than for the executive department of the State government, he did not intend to recommend the adoption of the proposed separate coach system in his annual message.

Prof. J. M. Maxwell, of the colored High School, of Louisville, replied to the Governor in a short but pointed address, which, together with the other addresses and the gentlemanly bearing of the delegates, seemed to make a good impression upon the Governor:

He said:

Having learned that the railroad commissioners will recommend to the General Assembly the enactment of a law to compel the management of all railroads operating within the State to provide separate coaches for white and colored passengers, we, your petitioners, representatives of one of the class of citizens named most respectfully ask your careful and impartial consideration of the memorial which we this day submit to your Excellency. Deeply interested as you must be in the well being of all the citizens of the Commonwealth, and feeling as you must the important trust committed to your hands as the Chief Executive of the State, we feel sure that no act of yours affecting the status of any class of your fellow-citizens will be taken without the exercise of your most deliberate judgment.

It will not be denied that wherever such laws have been enacted and enforced their enactment was prompted by prejudice against the Afro-American by the Anglo-American, and their enforcement can have as legitimate fruit no other tendency than to foster and intensify that prejudice; for, while many of the less intelligent of our people may willingly submit to the rules of railroad corporations made in pursuance of such laws, it is known to us, and it must be apparent to you, that such discrimination is a source of constant and poignant grief to every intelligent representative of our race; it is an object lesson given before the gaze of the world and designed to teach to all other nationalities of the human race that these dark-hued citizens of our Commonwealth are not worthy of your fellowship, and you are to have no communion with them. Hence the tendency of such legislation is not only to perpetuate the prejudice already existing in the bosoms of the Anglo-American, but to beget the same feeling in the minds of the representatives of every nation that come to our shores seeking the blessings—American liberty.

Seeking, as every wise and just executive must, the highest good of all classes of citizens of the Commonwealth, you can not fail to ask yourself the question: Does the welfare of either race demand the enactment of such a law? And if so, what provisions are necessary in



REV. JAMES M. TURNER,
Chairman Executive Committee,
Lexington, Ky.

MIS-PAGINATION

order that neither race may feel in any wise humiliated by its execution?

In turning our attention to the first question, this phase presents there is never any friction of serious consequence arising on account of race prejudice—such friction always being in inverse proportion to the presence of the characteristics, intelligence, good breeding and refinement. For the mutual well being of such passengers no special legislation is needed. To separate these well behaved passengers on the grounds of a difference in the color of the skin would, it seems to us, be an arbitrary act based upon unreasonable prejudice; and be humiliating to that class that feels it to be a stigma upon his race. There is certainly no demand for separation in such cases.

Would it be wise to force these passengers apart who are kindred in spirit, though different in color, and cause them to mingle with the rougher elements of their own race, between whom and themselves there is only one element of likeness, and that the most superficial imaginable—color?

It would be an unkind reflection upon the good sense and intelligence of your Excellency's own race were we to suppose that they prize color above character and would rather ride in a coach filled with the lowest of their own race than the highest and most gentlemanly of ours.

No man, however high his station in this Commonwealth, would be ashamed to tell his fellow citizens that he rode not only in the same coach, but in the same seat with Fred Douglass from Louisville to Frankfort, and no man capable of learning but might be wiser and better for the brief companionship of the "Old Man Eloquent" of the Afro-American race.

But would it be wise and in the interest of both races to have separate coaches for the lower stratum of both? Most of the travel of this class of both races is done as a matter of business; and there is no more occasion for the thought of social equality among the passengers than there is when both enter by the same door and trade from the same counter in our groceries, stores and other places of business. Why, then, should the law say to this one, "sit thou here," and to that one, "sit thou there," while each one is on his way to the same house to transact the same sort of business, and do if side by side with the same man? We can see no reason for such enactment. When either class travels in large numbers for pleasurable purposes and social enjoyments—as on picnic excursions—neither race thrusts itself upon the other. Without any written law, "they are a law unto themselves."

It is not, therefore, that we do not find our highest social enjoyments among ourselves as a race; it is not that we desire social recognition at the hands of other nationalities that we oppose the legislation in question; but it is from a higher and deeper motive; it is from sentiments of true patriotism—a love of our native land and a desire to have our country honored and esteemed by all nations as in every sense worthy of being the paragon of republics, giving to every citizen of whatever nationality an equal chance in the race of life; that no species

of ostracism may be enacted by the stronger nationalities and endured by the weaker anywhere under the folds of the American flag.

That such an enactment would be a stigma upon the colored citizens of Kentucky no one will deny; for, of all nationalities represented on our shores, ours alone, as lepers of the olden time under such law, must keep to itself when aboard the trains that traverse the State. It will teach the youth of your race to regard us as unworthy of the respect accorded to others, while our own youth, as they become more and more intelligent, will feel more and more keenly the ban of disgrace under which their color alone has brought them. Since they can not change their color, and character counts for nothing in their behalf, how can they escape their disgraceful doom? Can they hope that their good conduct will bring about the law's repeal? If that hope be vain, what is left for their wounded manhood's pride to do but to "seek a better country."

Hence, these petitions to your honor, praying your most careful consideration.

CHAPTER II.

THE DELEGATION APPEARING BEFORE THE JOINT RAILROAD COMMITTEE AT FRANKFORT—NOTABLE SPEECHES MADE BY PROMINENT MEN—DELEGATION OF LADIES APPEARING BEFORE AND ADDRESSING THE JOINT RAILROAD COMMITTEE—AN ABLE SPEECH DELIVERED BY MRS. L B. SNEAD, A. M —SPEECH OF MISS LIZZIE E. GREEN.

On January 29, 1892, a representative body of colored men met at Frankfort, the State capital, pursuant to a call from the Committee on Correspondence and assembled in the A. M. E. Church, the object of the meeting being to arrange to go before the Joint Railroad Committee of Senate and House to protest against the passage of the "separate coach law." Prof. C. C. Monroe was made chairman, and Dr. E. E. Underwood secretary. Rev. Eugene Evans, of Frankfort, was elected spokesman of the delegation. The following gentlemen were elected as speakers: Prof. J. H. Jackson, Frankfort; Wm. H. Steward, editor, American Baptist, Louisville; R. N. Lander, Esq., Hopkinsville; Rev. Robert Mitchell, Bowling Green; Prof. C. C. Monroe, Frankfort, and Hon. J. Allen Ross, Jericho. From the church the delegation proceeded in a body to the State capitol about 200 strong, representing eight counties in the State and about 300,000 Negroes. It is said by the Courier-Journal of that date that almost enough petitions, resolutions, etc., remonstrating against the passage of the bill were taken along to fill a separate coach.

When it was time for the Joint Railroad Committee to meet they packed into the hall of the House of Representatives until every inch of space was occupied on the floor, in the lobbies and in the gallery. Members had hard work struggling through the door and up the aisle, so dense was the crowd that surged without and blockaded the passageway.

"Such oratory, and particularly the speech of J. Allen Ross, the famous Negro Democrat, as was poured forth for two hours and more without interruption, is seldom rivaled even in Kentucky, the land of silver tongues. Some thundered, others pleaded and others preached, but it was all mellow and musical, aptly turned and earnestly intended. The sincerity that was manifested in the tone and manner of every speaker forcibly impressed itself, which fact was duly emphasized in the close attention given and the plaudits so frequently bestowed."

Senator Mulligan presided. Besides Mr. Mulligan, the full membership of the two committees, to the number of fourteen, was in attendance.

A glance at the delegates showed that they were representative men o ftheir race in Kentucky. They embraced educators, lawyers, doctors and journalists, all neatly arrayed and bearing the impress of intelligence upon their faces.

The Rev. Eugene Evans, of Frankfort, chairman of the delegation, addressed the committee and said there were fully two hundred present and that every man was prepared to speak. However, they would make no such request and proposed to accommodate themselves to the wishes of the members.

Prof. J. H. Jackson, of the State Normal School, was the first to take the floor. He explained how the Negroes of Kentucky were opposed to the separate coach bill and told why they protested against its passage. There were differences in social and mental conditions among colored people as well as among whites. Some were low and depraved and unfit to associate with the decent. Others were ambitious and enterprising, who loved their country, respected themselves and wanted to be near the better class of whites because of the refining and civilizing teaching such association imparted. He closed by offering as a substitute for all the pending measures a bill which made first and second class divisions of passengers, to apply to whites and blacks alike. Not color, but condition was to form the dividing line. He wanted the colored people to be made to feel that they were fellow-citizens in deed and in fact. A quotation from Goldsmith's "Deserted Village" and he was done.

Hon. Robert Lander, attorney-at-law, Hopkinsville, was the next speaker presented. He talked about the glory of Ken-

tucky's history, the home of Clay and Breckinridge, and made the point that to provide separate coaches would be class legislation, which the constitution prohibited. He read from the bill of rights, paid tribute to the Negro as a citizen and ended by declaring that to force the Negro into separate coaches could only be compared to kicking a cripple when he was down.

A delegation embracing twelve or fifteen and including Isaac Curtis, Dr. Fitzbutler and W. H. Steward, the editor of the American Baptist, were up from Louisville. Mr. Steward was called upon for remarks and made a fine impression. He said the colored man was not here to impugn the motives of anybody or in response to a mere sentiment. A careful examination of the operation of the law in States where it had been tried testified to its general unfitness and impracticability. It was in violation of the Declaration of Independence and the constitution of the State, which, in all its passages, never mentioned color but once, and then to provide for schools. The constitution further says (Section 204) that common carriers shall be so regulated by general law as to permit no unjust discriminations. The proposed legislation was a menace, sumptuary and dehumanizing. It gave to foreigners, no matter how degraded, rights which it refused to honest and native-born Kentucky citizens. During the war Kentucky remained a neutral State. Why not remain neutral now? Why disturb and place a blight upon the increasing prosperity and advancing intelligence of the blacks?

Mr. Steward next related some of his experiences on railroads in the Southern States, where such a law was in effect. He told of riding from Memphis to Fulton in a car all by himself, and across in Arkansas two coaches were on every train. The white coach was usually jammed to the platforms, while the Negro coach seldom had more than one or two passengers.

Prof. C. C. Monroe, now principal of the Lexington Polytechnic Institute, proved a very earnest and scholarly speaker.

He said: Mr. Chairman and members of the committee:

You have before your honorable body several bills providing for the establishment of a system of separate coaches on all railroads in the State for white and colored passengers. It is this lamentable fact that makes our presence here a necessity. A necessity in that we feel, we know that a great wrong is about to be perpetrated upon us, a class of citizens, inoffensive and law-abiding, who are studiously and system-

atically denied the right of representation in the legislative branch of our government by one of our number, notwithstanding the significant fact that we are property owners, real and personal, to the extent of several millions of dollars.

We feel that the movement is without sufficient cause, being unwarranted by reason of the condition of affairs that actually exists. The shooting of a young lady on a train coming out of Louisville some time since is given as the principle cause why such a law should be passed. Granting that this young person was shot by a colored man (and that fact has never been thoroughly established), is it the sense of justice that all of his race, regardless of condition, should be made to suffer for it? Does it follow that if an Irishman or a German should be found guilty of a crime so terrible as that of shooting an innocent woman, black or white, that every Irishman or German should be legislated against as a class? This would seem a natural sequence of the position taken by gentlemen who have undertaken to eradicate an evil which in the main exists in the imagination only. And yet there is not a man here, black or white, who would not denounce such a movement as being unjust, unchristian, undemocratic, and, under our present organic law, unconstitutional. If this be true—and there is not a man here who will risk his reputation for ordinary intelligence by undertaking to deny it—then why, in the name of justice, should there be a departure from this principle when it comes to dealing with the man in black? To my mind there is no reason for it.

Viewing the question calmly, dispassionately, and from every conceivable point of view, giving each element that enters into it its due weight and importance, I am forced to the conclusion, however much I try to avoid it, that this movement is a premeditated blow at the manhood and intelligence of such of those of the unfortunate race who, in spite of every species of opposition, have risen to heights of intelligence, moral and material worth attained by no race under the sun, circumstanced as were they at the beginning.

The facts of history are not without their important lessons to us, and in these days, when prejudice is fast giving place to enlightened judgment, he is counted an unwise leader who does not give ear to its teachings. I desire here to present a few pertinent facts of contemporary history, couched in the convincing language of figures, which, as we say, "do not lie." If it be held that on account of his general worthlessness and profligacy, the Negro is an unprofitable, and therefore an undesirable member of society, the facts shown by the following figures do not sustain the position taken by those of the more favored race who are wont to make this allegation the minor premise of their argument in sustaining their position against the advancement of the race.

In Kentucky, the grand old Commonwealth of Kentucky, famed beyond the Atlantic for the many varied virtues of her citizens, for the beauty and chastity of her women and the manhood, integrity and

justice of her men, we have, in the almost incredible short space of time of a little more than a quarter of a century, made the following advancement along the lines indicated:

Population	300,000
Taxable property valuation	7,000,000
Real valuation	10,000,000
In school houses	305,884
In school furniture	20,000
Total	$10,325,884

It is to be noted that this estimate does not include church property and the property of charitable organizations which, under the law is not subject to taxation. A fair estimate of this species of property would increase the total property valuation by at least 10 per cent.—The Report of the Superintendent of Public Instruction.

There are 1,225 colored teaches employed in the common schools, 50 per cent, of whom hold first and second grade certificates. These teachers have the care of 114,130 children. There are in the State three colleges, one normal and industrial school, eight high schools, one school of medicine and one each of law and theology.

In the professional world we are represented by fifty physicians, twenty-five lawyers, twelve hundred ministers and six journalists.

In business we are represented by many who do an annual business of from $1,500 to $3,000.

Is this the showing that profligacy and worthlessness can make, unaided and alone? Can it be that a people who have made such wonderful progress are to be checked in their advancement by legislative enactment?

If, upon the other hand, the passage of the law is based upon the single idea advanced by the railroad commission, namely, "to provide for the comfort of the colored passengers," we sincerely beg to assure you, gentlemen, that we are quite comfortable under the present arrangement, and take this opportunity to publicly thank those gentlemen for their kindly interest in our behalf.

By the terms of the bills now claiming your attention servility and crime are the only pasports that will guarantee to us the full enjoyment of those inherent rights and privileges which are freely and unquestionably exercised by all other classes of citizens, regardless of condition or nationality. Is not this putting a premium upon crime? Is it not an unjust discrimination, based as it is, whatever is said to the contrary notwithstanding, upon color and color alone? Can this movement have the sanction of gentlemen who before high heaven have sworn to do the right as God has given them the power to see the right?

It will not do to meet this momentous question with the assurance that equal accommodations will be given us. This "separate but

equal" idea is a snare and a delusion; 'tis but the gilded bait that insecurely hides the poisoned hook that lurks beneath its transparent surface. Granting that his idea will be carried out to the letter, that eqval and even better accommodations were provided us, we should yet have a just cause of grievance. There is a fundamental principle involved which, even in the latter case imagined—for it can find existence in the imagination only—would yet be violated. And, again, is not this a species of class legislation which our own organic law, to say nothing of the constitution of our Federal Union, expressly prohibits? Can gentlemen openly and knowingly perpetrate this great wrong against an unoffending people and hope to receive the sanction of a clear conscience now and the approbation of a just God hereafter? There is a divinity that shapes the destiny of nations as well as individuals, and to that end an omniscient Creator has vouchsafed to us certain inalienable rights and imposed upon us certain duties which have their genesis in the divine idea of justice and equality to all men, for out of one blood hath God created all nations of men."

It is difficult to see where there is justice in an act that seeks to punish the many who are innocent for the acts of the few who are guilty, and to suggest this wholesale discrimination against a class for the acts of a few is to suggest the perpetration of an act of gross injustice, the evil effects of which can not be estimated.

Lest the idea be gotten that we seek social intercourse with our brother in white rather than the full enjoyment of our rights as citizens, it may not be out of place for me to say that such is not the case; and to those before whose eyes this dire image of social equality is a Banquo-like ghost that will not down, I desire to offer the unfeigned assurance that such a consummation is quite as undesirable on the part of the better class of our people as it is distasteful to them. But there is a species of "social equality" indulged in by not a few of both races, without the sanction of law, which is far more deserving of legislative action than is the question now under consideration.

Gentlemen who undertake to stand sponsor for this ungainly, misshapen child of an unwarranted prejudice may aver this and disavow that, bu t the passage of such a law can have but one effect upon those against whom it is directed, can have but one significance to the outside world. That it will paralyze the laudable ambitions and forever crush the hopes of those who have risen above a condition which was not of their own making is a truth which all who will can see. That its significance abroad will be that we are a leprous set, morally and otherwise unfit to enjoy the rights and privileges guaranteed to other citizens, must be apparent to all who will take the pains to give the matter a moment's consideration.

And what, it may be replied, if such an effect is made; if such an impression is gained. I answer: Your interest is our interest; ours is a common destiny. When your gallant ship rides the crested wave of prosperity, peace and happiness our little bark will be upon the same



Secretary State Executive Committee.
Frankfort, Ky.

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Just here it may be a pertinent query to ask: What rewards shall we have for virtue, for uprightness of character and integrity of heart and purpose if this and similar marks of invidious distinctions, badges of inferiority and degradation are placed upon us? Virtue! echo you in derision? I stand responsible for the assertion that there are among us, even within the confines of these walls, not a few women who are as virtuous and as chaste and men who are as honorable as any who tread the soil, be they white or be they black. True, there are those of our women, as is the case with every race, who deserve to be classed among the unfortunate of their sex; but who, may I ask, has helped to make them so?

And shall it be that the chivalry of Kentucky, the brains and manhood of the Commonwealth, shall by legislative enactment, thus put its mark of disapproval upon virtue because, forsooth, it, by the accident of birth, happens to find lodgment behind a black skin? God forbid that such should be the case.

Kentucky will soon celebrate her one hundredth anniversay. The capstone of a hundred years of prosperity with honor will be put on with shoutings. Her history as a State will be told by eloquent tongues to the eager, listening thousands. Peace at home represented by a white-winged seraph will spread wide her pinions to overshadow all. The product of her fields, of her mines and of her shops will be put on exhibition to mark her phenomenal progress along industrial lines. Her schools and colleges will point with becoming pride to the many thousands of useful and honorable men and women who have issued from their walls. Science, art and industry will spread their lavish stores before the admiring gaze of happy thousands. Her honorable record, replete with deeds of heroic endeavors, of daring exploits in camp and field, will be read in our hearing, and the priest will ask a benediction. And shall it be that ere the horologe of time marks the completion of a century's growth, shall it be that our fair record, heretofore unsullied and untarnished, shall it be that it shall be blackened by an act of proscription so baneful in its effects upon an unoffending race? The answer to the question, gentlemen, is with you. Let your quickened sense of justice and right direct you in dealing with this question that you may be the better prepared to deal with thy weaker brother as God has directed you.

Hon. J. Allen Ross was then introduced and made an eloquent address. He said that he pleaded for the Negro and a fair chance. He said there was nothing about the blacks to inspire fear and show that they could not be trusted. Were they not trusted with the keeping of the homes of those gallant Kentuckians who rode away to war in 1861, and didn't those who returned find their homes sacred in the keeping of the blacks during the years that intervened?

The Negroes were not murderous and bloodthirsty. They were law-abiding citizens, who lived up to the law and strove to do their duty by their fellow-citizens. There was no reason why they should be put in a separate cage like a criminal when they traveled. No white man need be afraid of them, and when it came to the women, any Negro who was worthy of the name would willingly lay down his life in the protection of a white lady.

As secretary of the National Association of Colored Democrats, he would speak candidly and say that he believed such a law would be injudicious and impolitic. The leaven of enlightment politically was spreading among the colored people in the North, and this would place a serious check upon it. Kentucky must not be provincial and narrow; it must be grand and majestic, liberal and free.

This was followed by Rev. Robert Mitchell, A. M., of Bowling Green, Ky., who said:

Mr. Chairman and Fellow Citizens: Being a free people living in a body politic, we feel that it would be little less than pusilanimity on our part to sit like "dumb dogs and chained lions" when the rights of our manhood are about to be abridged.

To do less than protest against the proposed "separate coach bill" is to cringe like brutes before their masters. When it comes to such a pass that our women will have to be herded like cattle we can but protest with all there is in us.

We feel that if the proposed bill should become a law it would forever stagnate the progress of the colored people of this State.

The attempt at such legislation seems but the outgrowth of inveterate prejudice for which we see no reason. If prejudice should exist it ought to be on the other side. The colored people for nearly two and a half centuries were bought and sold as chattles, yet in the face of the circumstance they cherish a perfect good feeling for their white brother. The white brother instead of feeling the same toward them, seems bent on throwing taunts at him from the press and the Legislature of the State.

Is it possible that we have grown worse since the war? To indulge such a thought is unreasonable and absurd. In the light of our boasted civilization all should recognize the "Fatherhood of God an the brotherhood of man." "God hath made of one blood all nations that dwell on the face of the earth."

We hope the time is not far distant when all men will be willin, to recognize this fact. We are loyal citizens and are trying to better our condition. It is inhumane to wait a quarter of a century and then take steps toward proscribing us. Why was this not done when we

were in our worse state? Why wait until our condition is far improved and then insult us thus?

Had such a law been proposed then, we could not have regarded it so unjust and humiliating. We are painfully conscious that some belonging to our race do not respect and behave themselves. The whole colored race is no more responsible for them than the whole white race is for the rough and uncouth elements among them.

Why then class us all together? Why not leave the matter discretionary with us? If I should choose first-class passage why refuse and assign me to an apartment in which I do not care to ride? Is such a course just and righteous? I leave the question with the unprejudiced to answer.

The white people of this "south land" know us and we know them. They know the colored people are not so vicious and dangerous that the happiness and safety of the white traveling public are so imperiled that it is necessary to have separate coaches for whites and blacks.

Strange transition!

While you were at war fighting for a principle wholly against us we were supporting and protecting your homes; on returning you found them as chaste and pure as when you left. Had the colored man been vicious and dangerous great would have been the slaughter of those days.

We are sure there is a better feeling between the races to-day, especially the cooler heads, than ever before. Each has higher respect and appreciation for the other. The conservative and clear brained white men see that the colored man has far surpassed the most sanguine expectations even of his friends. He has built school houses and colleges and acquired much wealth. These speak in silent language and tell his rapid advancement, thereby showing that whatever is good for the white man is good for him. You may enter his library and you will find the same books and papers lying on his desk that you find on the desk of the literary white man.

It has been said that the character of a people is determined by the kind of literature they read. If this holds good in every case, which I do not doubt, the character of the colored man compares favorably with that of his more favored brother.

Are the criminals to be accorded more rights and immunities than the cultured and refined colored men and women? Will you, in whose hands the Almighty has entrusted the government of the State, impede the progress of 300,000 persons that tilled the soil of Kentucky and made it what it is?

We pray that the home of Clay, Marshall, Menifee and others may not be disgraced by narrow and conventional legislation. Any gentleman, regardless of the color of the skin or texture of the hair, should have the right to choose where he may ride. We deprecate the thought of our State taking any action whatever which would degrade a people that have always remained loyal to its interests and would

to-day take up arms in defense of the same.

Recently when war seemed imminent between our country and Chili, the fire of patriotism burned in my bosom and I was prepared to take up the gun in defense of my country. You know we are not "Brognignags nor Liliputians," but men with brain and soul, and will soon solve our own problem if you leave us unhampered in the race of life.

We do not ask to be put before you, but take us by your side that we may rise to that point of eminence which is designed by the Allwise Creator.

Give us a fair chance, then if our condition is not improved brand us as a worthless set and unfit for the rights guaranteed in the constitution of the nation.

We are not here asking social rights. No set of men would protest more vigorously against such legislation. We simply ask those rights that belong to us as citizens.

As Kentuckians we pray that the Legislature will not pass a law restricting our immunities as if we were aliens. Give us all the rights that the Declaration of Independence says man is entitled to. The colored people have striven hard to rise against odds to which they have been subjected. Will you let us pluck roses of success from the thorns about our pathway? Laws enacted in any State to restrict the privileges of its citizens are not only a disgrace to the State but to the whole nation and a gross violation of Sec. 2 of the federal constitution regarding "civil rights."

"All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and the State wherein they reside."

No State shall 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 or liberty without due process of law." The South boldly denies us our rights of first-class transit on railroads. The colored man is wedded to the South and all of its interests. His labor and brawny muscle have trundled the car wheel of progress and prosperity of this country. He is the great source of the South from which abundant revenue is reaped for reward. From the earliest period of the colored man's introduction into this country can be traced his heroic deeds and undaunted courage unto this day.

The colored man is a great factor in this nation which no statesman would dare ignore. The colored man does not desire nor is he aspiring to control this government, as was asserted by an orator once, but only demands his rights as a citizen, equal and exact justice to all and special privileges to none. Justice is all we ask and nothing more, and nothing less will satisfy us.

Has the colored man since his quarter of a century of freedo grown morally worse? No, comes the response with the pressure of ton to the square inch.

But he has improved himself in every particular, and is rapidly rising in that which is useful and grand.

Why is Kentucky not proud of him, instead of taking supreme steps to further oppress him.

The interests of the two races in the State are the same—they are inseparably connected and a separation would prove stagnation and even death. The "Old Roman Knight once said in his speech that the colored man was but a "prolific animal, ignorant of all culture and refinement." We do not know whether it was ignorance or not on the part of the speaker; but that assertion was ignominiously laughed to scorn by many of the great men of our race, and by some whose names are indelibly inscribed on the walls of Congress. We are not protesting as colored men, but as Kentucklans, proud of the name and praying Almighty God that the committee will report adversely on what we call the iniquitous "separate coach" bill. Gentlemen, don't check our progress and maim our manhood by the enactment of this law.

Give us a chance in the race of life.

Delegation of Ladies Before the House of Representatives.

By invitation from Prof. C. C. Monroe, chairman of Com-
n Correspondence, a delegation of ladies appeared be-
Joint Railroad Committee of the Senate and House
h, 1892, and made able and telling speeches in the
heir race, protesting against the passage of the sepa-
law and appealing for justice for an abused and
people. Mrs. L. B. Sneed, A. M., of the State Univer-
isville, made an eloquent address, as follows:

hairman and Members of the Railroad Commission: Little
hat the day would ever dawn in which I, one of the weak-
creatures, and a Negro, should stand here in this place set
dispensation of Justice to all the people of this Common-
rdless of race or color, and with outstretched hands plead
le.

have been besought long and earnestly by my brothers,
about all under the sun that can be said has been stated to
l yet our men are not willing to lay down their arms until
all have permitted their God-appointed help-meets to take part
, the final struggle. It may be that God has left this for our
. There was a time in the history of the Bible when a whole race
doomed to die, and it seemed that nothing would avail to save
hem. One little woman, weak and trembling, went before the king

in their behalf. God gave her success, and to-day that nation lives to honor her name. That woman was Esther. When Volumnia, Virgilia, Valeria and the youthful Marcus gathered about the ambitious, angered and determined Coriolanus the greatest example of motherly love, wifely devotion, filial tenderness and friendly affection found between the lids of history was then put on record. Moved by a desire for revenge against his own country and kinsman, this generous, warmhearted man, in the very hour of his traitorous act, is checked from his devastation by the veneration almost akin to worship which he holds for his family. The result is better told in the words of the great dramatist, as Coriolanus utters them. "Mother! mother! you have saved your country but lost your son." But need I go back to the dark untutored ages of other centuries to find authority for the valid services which woman has rendered her country? The liberal and expansive tendency of the present age has awakened every impulse of human nature. Women to-day are, as you well read men know, college presidents, astronomers, lawyers in the highest courts of our land, physicians, editors, professors and above all mothers capable of feeling and understanding what is to be the future of their sons and daughters. The poet, Whittier, has pictured the heartrending scenes of a black mother in the cold, inhuman days of long ago. But let the past be forgotten and let the healthful influence of christianity shed its benign effects upon all mankind alike. Women have helped wise legislators in formulating and shaping the liquor traffic; they have stood by them in the saving of human life. Do not then despise their prophesies or disregard their warnings. So much for the women. No[illegible] the question of separate coaches. We learn from the reading o[illegible] stitution that this is a country of the people, for the peo[illegible] the people. Not the white man's country, not the black m[illegible] but every body must be free and equal. First, I need not [illegible] have framed or helped frame constitutions, that the bill [illegible] tional. That discrimination on account of color is wro[illegible] proven from the fact that the constitution of the United [illegible] "There shall be no distinction on account of race, colo[illegible] condition of servitude." It is only by the most transparen[illegible] that this is smoothed over. If it admits of seperate co[illegible] admit of every other distinction that prejudice may conce[illegible] suggest. This is only an opening, and when we remembe[illegible] Arnold Winkleried made a small opening by clasping a[illegible] within his grasp, the others rushed through until so grea[illegible] had gone through it was impossible to drive them bac[illegible] think of this sudden and almost miraculous fissure ma[illegible] seeming impregnable front of that line and the consequen[illegible] followed. We tremble for ourselves as we stand every [illegible] drawn, every nerve strained, seeking to defend our righ[illegible] prevent a break in this so great and grand constitution. Secon[illegible] believe that the passage of such a bill will tend to make the best

most enlightened talent of the race emigrate, which will be detrimental to you as much so as to us. If you will consider closely you will find that you can not well spare the Negro yet. Again, you have spent thousands of dollars in educating the Negro and giving to him facilities for higher training. Though we pay taxes on seven millions of dollars' worth of property, that would not be sufficient to give us all the advantages which we have and yet this very class on whom you have placed money and time will be the first to emigrate. We understand you and your ways and you understand us, and it is better that we should live together in peace and friendship than that other nations, coming from foreign shores, bringing with them the seed of anarchy, the germ of socialism and the embryo of nihilism, should fill our places. Third, it will prevent the intelligent of our race from seeking our state. Within the last few years have come into our principal cities, adding to their numbers and doing credit to them, men and women of intelligence—doctors, lawyers and educators. These are acting as the little leaven that will in time leaven the whole lump. Fourth, it can not inspire loyalty of the colored citizens to the State. The black man has enjoyed singing "My Old Kentucky Home" as much so as the white' and the sound of the strains has been sweet to his ear; but when that home has lost its attractions for him there will be nothing to inspire him to be loyal to it. When we have been circumscribed by the individuals of the State, we have not felt that it was the State which did it and we have patiently borne it. But when the State passes a law which circumscribes us on account of our color then we feel as Cata- have felt when he said, "Until this hour I held some slack , but now my sword's my own." And yet we love Kentucky remain true to her. We are just as proud of her fame for and fairness as the whitest man that has ever trodden her her cabins and farms the souls of our ancestors, together ook their flight and are now, we believe, watching from the of heaven the actions of this august body. The bones of have gone to fertilize her soil and make possible its won- tions. The tears of our mothers have enriched its corn patches and tobacco fields. We first felt the blessed in- Christian religion in the land of the Clays, the Breckin- e Blackburns. We desire to continue feeling this love lying devotion, but I fear that a step like this will cast a disappointment upon this bright flame. There are other why this bill should not pass. One is, as has been said, heal the running sore. First, because there will be other in- es in the shape of packed couches. I myself saw this last traveling through Tennessee, Arkansas and Texas, the of the whites crowded to standing room, while frequently there nly two Negroes in a car; sometimes a few more. We admit t is not a pleasant thing to ride with many persons of our race, we ourselves are often made ashamed, and yet in part you are nd to acknowledge the same of yours. You cannot then say that

it is any one thing common to the Negro race which makes you wish to separate us so entirely from yourselves unless it be the color and the fact that we are Negroes, for there are some among us who are so white that their nationality cannot be detected, and whenever these perchance get into places from which the African is debarred there is no trouble or disturbance made, and yet you cannot think that the black will rub off, for there is no better proof that such a thing is impossible than that had this been the case many of your ancestors and possibly some who sit before me to-day who have nursed at the breast of a black woman, would have suffered severely with the black tongue. Even nature itself shows that God is no respecter of persons. He makes his sun to shine on the black and the white alike. He causes his rain to fall on the sons of Ham just as on those of Japeth. I wonder how many of you think whether or not there is a separation, a drawing of the color line beyond the grave. I wonder shall we all be white or shall we all be black, or shall we remain as we are and in the presence of God's glory and the light of his countenance forget about our color. God grant that it may be so, for of a truth there is but one heaven and one hell. Might is not right. You own all the railroads; the power is in your hands. You can do what you will. But to my mind a giant who would take a great club and kill a mouse does not display his powers of strength; does not elicit admiration. It is when giant grapples with giant, as did the gladiators in the days of old Rome, that bravery, courage, valor and virtue are displayed and that the victor should be honored and given the palm. There may be much that would keep us from socially being your equal, a[illegible] not desire so to be unless you yourself should wish it. But [illegible] Negro hands, organs, dimensions, senses, affections, passion[illegible] the same food, hurt with the same weapons, subject to t[illegible] eases, healed by the same means, warmed and cooled [illegible] winters and summers as yourself? Do not then ignore [illegible] and place upon us a stigma that will cling to us as lo[illegible] Kentuckians, a name of which heretofore we have bee[illegible] only the present generation, but our ancestors have bee[illegible] it and proud to boast of our devotion to and love for K[illegible] and daughters, I had a white-haired old grandmother w[illegible] infant cries and satisfied the boyish whims of one [illegible] greatest judges. In after years how I have seen her rej[illegible] that man would attain prominence. How her face would [illegible] her mind travel back to other days when the name of [illegible] Jackson was called. They both now sleep beneath Kentu[illegible] her grand child stands to-day before Kentucky's dispenser[illegible] and asks that the memory of those whom we hold dear sh[illegible] marred by humiliating those among us who would become [illegible] women of whom Kentucky herself should in time be proud. [illegible] is fast approaching and is even at our door when Kentucky sh[illegible] brate her one hundredth anniversary. Looking backward ov[illegible] wonderful progress that she has made, the great men which sh[illegible]



HON. GEO. W. GEXTRY,
Chairman State Central Committee,
Standfort, Ky.

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given to this republic, the fine structures she has reared up within her territory, how she has, as it were, enlargened her borders, increased her wealth, we are constrained to say that she may well be proud of her achievements. But shall she now in this, the 100th year of her birth as a State, place upon her fair escutcheon a blot so black that it will take all the tears of the oncoming generations, all the winter's snows and driving rains, all the April showers of the next hundred years, to erase it. Shall she on this the verge of a world's exposition in which she expects to play a great part, shall she write on the hitherto unstained pages of her history, that it may be there displayed and the tale told the world over, one of the most unkind thrusts, one of the most distressing examples of "striking a man when he is down" that has ever been perpetrated upon the Negro since first Kentucky was called by that name. By all that is good and holy we beseech you that you withhold your hand this time, and if you cannot do us good do not do us evil. We have never harmed you. Do you think so? Go back again with me to the days when you were obliged to leave your homes and go to the field of battle and ask yourselves the question: "How did the Negro treat my wife and children." You know full well the answer. He was faithful, loyal and true. And remembering this:

"What e're you are that in this desert inaccessible,
Under the shade of melancholy boughs,
Lose and neglect the creeping hours of time
If ever you have looked on better days,
If ever been where bells have knoll'd to church;
If ever sat at any good man's feast;
If ever from your eyelids wiped a tear
And know what 'tis to pity and be pitied,
Let gentleness by strong enforcement be."

This was followed by others, among whom were Miss Lena B. Tibbs, of Danville, Ky.; Miss Mary E. Britton, of Lexington, Ky.: Miss Lizzie E. Green, of Frankfort, Ky., and Miss Mary V. Cook, of Bowling Green, Ky., all of whom were introduced by Prof. Monroe, and made a favorable impression.

Miss Lizzie E. Green spoke as follows:

We, a delegation of colored women, have come before you to crave a hearing on the separate coach bill now awaiting your disposition. We pray you to let our earnestness and honesty of purpose plead an excuse for our boldness in daring, in thus presuming to address you, such action being in direct opposition to our natural timidity. We, in the capacity of teachers and mothers, have been striving to elevate and enlighten the children entrusted to our care in order to make them law-abiding, respectful and respected citizens; and though we have not succeeded in making the masses what we would have them to be, still quite a number are honest and intelligent. And judg-

ing by the development of other nations, past and present, and the progress of our race since its liberation, there is hope that we in time will cease to be the ignorant and degraded race circumstances once made it ours to be. It has required centuries of constant progress to make the great Anglo-Saxon race what it is to-day. Can we in two or three decades be expected to reach the same heights? Ah! I fear that it is. Such an expectation can not be based on reason. A little thought will show the absurdity of such a conclusion. We can not acquire in a few years the culture and refinement that centuries of training in seminaries, colleges and intelligent home circles have given to other nations. This grand old Commonwealth with great magnanimity has granted to us equal educational facilities and compensations, and has given to us a State Normal School for the training of her colored teachers, thus proving her interest in the future development of her colored people. Has she not always stood by the right and for the right? And in the struggles of "our country" for national independence, territorial right and union of States, who fought more bravely then her sons? We love our State and feel proud of her loyalty and benevolence. Now that you, as representatives of the sovereignty of this grand old State, are on the eve of discussing a bill that abridges the freedom of its citizens, we pray that you will, with your usual magnanimity and chivalric deportment, consider what the effect will be on the colored element. Will it not tend to extinguish the fires of patriotism that now burn so bright in our breasts? Ah! in your battles for liberty, independence and union have we not been staunch, trustful participants? And when we were not able to take active parts in engagements have we not protected your wives, children and property in your absence? We have never betrayed your trust. Oh! I appeal to you to look with mercy on our condition and do not set us apart as unworthy the name of citizens! By the passage of this bill you say this grand old State is not the "home of the free." That we are not at liberty to travel on the same thoroughfares in common with other citizens. Dear sirs, if we are to rise in intelligence, integrity and industry it is with our help. That you desire our advancement your previous acts have proven; but if you put a ban on our manhood you retard our growth. We can never hope to elevate our race to the eminence that the donations for educational purposes would suggest. You will remove the stimulus to ambition and retard improvement in every line of duty. If our young men and women attain a proficiency in the different arts and sciences, if they become skilled mechanics, agriculturists, artists or teachers, there is no assurance that their services will ever be needed. Then the question will naturally suggest itself, "Why fit myself for a position I can never fill?" There is no recognition of the moral and intellectual worth of the faithful few who are struggling to elevate the masses. Their labors will be counted as naught. In the days of King Ahasuerus, when the decree was issued for the destruction of the Jews, would not Queen Esther have been destroyed had she not

braved the authority of the king and pleaded for herself and people? This law would have put to death every Jew, both young and old, high and low, and in every condition in life, not even sparing the queen on her throne. Would you, honorable sirs, think it just to pass a law to punish a whole race of people because of the sins of a portion of that race? Can this not be said of the separate coach bill as well as of the stern decree of King Ahasuerus? It makes no discrimination as to the condition of men, but classes all together according to color. Man can improve his condition. He can become refined and intelligent or remain ignorant, but he cannot change the color of his skin, which is the indelible gift of the Allwise Creator. Why not legislate a measure that would make condition and not color the basis? Would it not be more in keeping with the constitution of our country and the religion of Our Redeemer, who hath said, "Whoever will may come?" Burns puts it admirably when he says "A man's a man for a' that." So intellect and morality should outweigh minor differences. There are only a few colored people who travel as compared with the whites. A separate coach system necessarily would incur needless expenditure in order to make equal accommodations for both classes. Our mother State Virginia, the grand old Dominion, refused to sanction the bill, and also South Carolina, the first State to secede from the Union. Can Kentucky, our loyal State, that stood firm and unchangeable during the sad and bloody war of the rebellion when all her border States south had withdrawn their allegiance to the Union? Firm and loyal when sympathy for her suffering sister States might have led her to espouse their cause. Firm and loyal, though indignation and hatred be hurled against her by the sister States seceding. Firm and loyal till peace and good feeling had again united our country together. Can Kentucky afford to be less magnanimous than Virginia and South Carolina? May she ever preserve her loyalty. Deal justly with her inhabitants and carry unsullied her banner on which is inscribed: United we stand; divided we fall.

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CHAPTER III.

THE INTRODUCTORY OF THE SEPARATE COACH BILL IN THE SENATE BY TIPTON A. MILLER—ITS LIFE IN THE SENATE AND HOUSE—ITS FINAL PASSAGE—THE STATE CONVENTION AT LEXINGTON, JUNE 22, 1892—THE ELECTION OF OFFICERS—PROCEEDINGS IN FULL—SYNOPSIS OF SPEECHES MADE, ETC. THE SEPARATE COACH POEM, BY MR. E. G. ARNETT.

The introductory of the separate coach bill in the Senate by Tipton A. Miller, of Calliway County, January 6th, 1892.

On the above date Senator Tipton A. Miller introduced in the Senate the infamous separate coach bill known as "An act to regulate the travel or transportation of the white and colored passengers on the railroads of the State."

On January 8th, 1892, Mr. I. M. Quigly presented the bill in the House known as H. B. 6, to the Committee on Railroads.

On January 11th the bill was taken up in the Senate and ordered to be read for the second time. The constitutional provision as to the second reading was unanimously dispensed with, and was referred to the Committee on Railroads and Commerce.

Mr. Henry George reported the bill in the Senate without amendments; which was ordered printed and recommitted to the Committee on Railroads.

On January 14th. Mr. G. W. Gates proposed an amendment as a substitute for said bill, which was recommitted to the Committee on Railroads and Commerce.

The following day the bill was taken up in the House and read for the second time, and referred to the Committee on Railroads and Commerce.

On March 16th, Mr. Mulligan, of the Committee on Rail-

roads and Commerce, reported the bill with amendments, which were adopted.

On motion of Mr. Miller the further consideration of the bill was postponed, and it was made the special order of the day for March 29th at 11:30 a. m. and from day to day until disposed of. The appointed hour arriving on this day the bill was taken up with sundry amendments offered by Mr. Wm. Lindsay. The hour of 1 o'clock arriving before the discussions were concluded on the amendments, the Senate adjourned. The following day the bill was taken up and the amendments heretofore offered by Mr. Lindsay were adopted.

A general discussion on amendments ensued, and among the many amendments offered was one by Mr. James H. Mulligan to the effect that this law should apply to all street cars as well, which was lost.

The reading of the bill for the third time was dispensed with, the same being engrossed and passed by the following vote. Those voting in the affirmative were: Geo. H. Alexander, C. A. Board, R. J. Breckinridge, M. S. Clark, Reuben Corner, John M. Galliway, G. W. Gates, J. B. Hannah, A. H. Hargis, F. M. Hutchinson, E. Kenton, William Lindsay, J. W. McCain, Tipton A. Miller, John W. Ogilvie, Chas. Patterson, D. H. Smith and A. H. Stewart. Those voting in the negative were: Edward Daun, J. W. Downer, W. H. Jones, J. W. Martin, D. L. May, John McCann, James H. Mulligan, John P. Newman, Edward Parker and Phillip Roberts.

On April 2d it was reported in the House that the bill had passed the Senate and was there referred to the Committee on Railroads and Commerce.

On April 14th, Mr. Kremer, of the Committee on Railroads and Commerce, reported the bill to the House and moved that the House resolve itself into a Committee of the Whole House for the further consideration of the bill, and the Hon. C. M. Clay, Sr., be invited to address the committee. On going into a Committee of the Whole the committee arose and reported the bill back to the House, which was recommitted to the Committee on Railroads and Commerce.

On April 16th, Mr. Woods reported the bill, which was read the first time and ordered printed and read the second time on some other day.

On April 20th the bill was taken up and read for the second time, and on motion of Mr. Woods was postponed until April 28th.

On May 14th the bill was taken up in the House for its final passage.

Sundry amendments were offered by Messrs. Bennett, O'Meara, Ball, McInerney and Bashaw, which were lost.

On motion of Mr. Carroll the orders of the day were postponed and the bill was taken up for passage, general discussion was indulged in on amendments offered, after which the House adjourned.

The following morning the House was opened by prayer by the Rev. H. G. Henderson, of the M. E. Church South, who very earnestly invoked the indulgence of the Heavenly Father on what they were about to do. Being satisfied that they had got consent of their Father to thus discriminate against a class of human beings, they proceeded to pass the infamous law

The bill was read for the third time and passed by the following vote: Those voting in the affirmative were: Speaker Moore, Louis Alexander, Sr., W. W. Ayres, W. S. Bailey, Posey D. Ball, John T. Bashaw, R. F. Bass, W. B. Beard, John Botts, A. J. Carroll, B. E. Caudill, Wesley Crow, J. M. Dawson, Jr., James R. Dean, E. M. Dickson, J. E. Durham, McD. Ferguson, Geo. W. Follis, J. M. Frazee, Wm. Garrison, J. P. Gay, J. C. Glenn, S. M. Gough, Geo. T. Halbert, Thomas H. Hanks, U. G. Harlow, A. L. Harne, R. K. Hart, H. K. Hay, P. R. Hays, B. B. Hensley, D. James, W. W. Johnson, R. M. Pichelon, H. P. Lively, C. W. Mathers, W. H. May, Hiram McElroy, W. F. Neat, John L. Payne, W. F. Peak, J. F. Porter, A. T. Pullen, I. M. Quigley, R. E. Roberts, D. H. Severs, Waller Sharp, S. H. Shouse, Fenton Sims, W. W. Stephenson, C. D. Reed, J. R. Summers, J. R. Thomas, D. W. Tribble, N. S. Walton, J. H. Welch, B. F. Willett, Geo. E. Willett and John D. Woods.

Those voting in the negative were: John Bartman, B. F. Bennett, B. T. Burkhead, P. S. Bruner, F. W. Hutchinson, A. D. James, J. S. Joplin, T. S. Kirk, M. D. McInerney, Eli, Nichols, J. A. Perkins, Thomas S. Pettit, Polk Cansler, R. F. Comer, J. S. Cullen, John Finn, W. J. Hissem, Henry Kremer, Wm. Krieger, John Letterle, John S. May, E. M. Pryse, John Ryen, Samuel O. Tate, and John M. Tinsley.

On the following day the bill was reported in the Senate as having passed the House.

On May 24th, Mr. Edmiston, of the Committee on Enrollments, reported that the bill had been examined and enrolled.

On May 31st a message was received from the Senate announcing that they had received official information that the Governor had approved and signed the bill.

Convention at Lexington,

Pursuant to a call from the local Executive Committee of Frankfort, Ky., a large delegation of representative colored men of Kentucky met at the State Capitol on June 22d, 1892, for the purpose of organizing themselves into a movement to take active steps against the separate coach law. They met at the St. Paul's A. M. E. Church at 12 o'clock, where the services were opened by singing and prayer, after which the meeting was formally called to order by Prof. C. C. Monroe, chairman of the Executive Committee. The call for the convention and also the separate coach law were read by Dr. E. E. Underwood, secretary of the Executive Committee. This was followed by the chairman in an address covering the work of the convention and submitting the recommendation of the Executive Committee.

The following temporary officers were then elected: Jordan C. Jackson, of Lexington, Chairman; W. H. Stewart, of Louisville, Secretary. On taking his chair, Mr. Jackson made a very able address, in which he said:

Gentlemen of the Convention:

For the unsought honor of presiding over this convention temporarily I thank you most sincerely. While I am glad to see and proud to preside over such an intelligent body of men as I see before me today, yet I regret very much the necessity for this gathering. Had the separate coach bill, which we are here to consider, been pressed by the Kentucky Legislature twenty-five years ago, while the bitterness engendered by the war was at its height, we would not perhaps have felt it so keenly as now, but after nearly three decades of citizenship, in which even our worst enemies will readily admit that we have made commendable progress in all things that tend to advance us and make us better citizens.



W. H. STEWARD, Esq.,
Secretary State Central Committee.
Louisville, Ky.

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Encouraged by the admission of Negro testimony in the courts, an equal distribution of the school fund, and the establishment of a "State Normal School," the rapid acquirement of property and accumulation of wealth, as is shown by the records in every hamlet and city of the Commonwealth—all these things lead us to believe that we were on the high road to success; and we had indulged the fond hope that we had the sympathy and encouragement of all classes of our white fellow citizens in our efforts to secure for ourselves and our children a higher, a better, and a nobler citizenship.

The passage of the separate coach bill, with the stigma sought to be attached to the race, is a rude awakening to the stern fact that we have reached a crisis in our lives; a crisis, perhaps, such as no other people upon the globe have ever been called upon to face; a crisis that will try us as by fire and call forth not only the best thought and most careful action of the race, but the sturdy qualities of an enlightened manhood that enables one to contend for his rights as guaranteed by the laws of the land, even though he must contend against great odds.

With our cause in the hands of careful, practical men, I believe as firmly that we will succeed as I believe there is a God above us, who rules the destiny of men and nations. Now, gentlemen of the convention, while it is not my purpose to deliver a eulogy upno Lexington and its citizens, yet I know you will pardon me for calling your attention to the fact that Lexington has been intouch and closely identified with every movement for the advancement of the race in Kentucky.

It was in Lexington that the first movement was made looking towards the admission of negro testimony in the courts. The brilliant Breckinridge, now a member of Congress from this district, being defeated for Commonwealth Attorney upon Negro testimony issue. It was in Lexington in this building dedicated to the service of God that the convention of colored men who secured an equal division of the school fund was held; it was in Lexington in this building the convention of colored men who secured the establishment of the State Normal School was held.

Gentlemen, may we not hope that here we have met our mascott, and in this building to-day, out of this body of intelligent men, may we not hope to evolve the plan, and adopt such measures as will tend to the setting aside by the courts this unjust "separate coach" measure. We have been peculiarly blessed in Kentucky; we have been free from race trouble, and it is said that even before the war the Kentucky Negro was not subjected to the same cruelty as his brethren farther south. Kentucky was neutral ground during the rebellion. We therefore witnessed but few of the horrors of the war, and underwent but few of the hardships of the war.

In none of the States where the "separate coach law" has been enacted have the colored people made a more persistent and stubborn

fight against it than in Kentucky, and it seems to me fitting and right that the contest for the civil liberty of the Negro of the South should begin in Lexington under the shadow of the monument of Kentucky's great commoner, Henry Clay, whose voice was always raised in defense of human rights.

Gentlemen, I desire to impress upon you the fact that the question to be considered by you is one of the gravest importance to us. Our common and civil rights as citizens are involved. Our fathers have labored to make this country what it is to-day, and yet if this law is permitted to go into effect we are citizens of this great country in name only, "native and to the manor born," our fathers shedding their blood from the wars of the revolution to the rebellion for its independence and preservation, and yet denied the common privileges accorded citizens fresh from the cesspools of Europe. The hour demands our careful, deliberate judgment.

This is not a time for intemperate expression nor impulsive action. We want calm, thoughtful, earnest effort.

Think not we are alone; we have white friends by the score who believe the law is unjust, and stand ready to assist us in bringing the matter before the courts. Let us, I beg you, in the interest of the common cause, repress the feeling of indignation that naturally swells in our bosoms, and so shape our actions here to-day as to compel the respect and challenge the admiration of all classes of citizens of this Commonwealth.

Mr. John W. Danridge, on behalf of the citizens of Lexington, responded, extending a cordial welcome to the delegates in attendance. On motion the following committee was appointed on credentials: Rev. E. L. Gillian, of Louisville; W. H. Taylor, of Lexington; R. C. H. Mitchell, of Henderson; J. W. Woolfolk, of Frankfort; S. E. Smith, of Elizabethtown; H. Beam, of Bardstown; J. C. Graves, of Paris.

The convention then took a recess until 2 o'clock p. m.

At this time the convention was called to order by the President, after which an invitation was extended Mr. J. T. Robinson to address the convention, which he responded to very ably. The Committee on Credentials then submitted the following report, which was adopted:

We your committee find several persons present who were not elected by any mass meetings, as none were held in their respective counties; yet, who have sufficient interest in the cause to come to this convention, and we therefore respectfully recommend that all such persons coming from counties outside of Fayette, be seated as delegates in this convention.

Bourbon County, John Jones, Robert Claxton, H. L. Herod, J. W. Hawkins, Richard Kelley, J. C. Graves and S. H. Mitchell; Hardin County, S.E. Smith and G. W. Bowling Woodford County, Rev. W. King, R. Quartes, A. H. Ross, and A. W. Breckinridge; Davies County, Richard Varian and R. T. J. Morrison; Henderson County, R. H. C. Mitchell, A. H. Cabell, and Dr. S. A. O'Neil; Logan County, G. T. Lyne, L. S. Campbell, J. W. Head, Geo. H. Baird, and H. H. Proctor; Fayette County, S. P. Young, G. T. Calvin, Lucian C. Smith, C. R. Mack, A. M. Boswell, W. C. Taylor, A. L. Harden, D. R. Wilkins, Edward Chenault, Steven Dunn, Willis Coles, J. W. McMillan, A. P. Merchant, Perry Smith, J. C. Jackson, G. Searcy, John Shreves, J. R. Dancer, B. D. Black, and M. T. Martin; Franklin County, J. W. Woolfolk, B. F. Spencer, E. E. Underwood, M. D., Eugene Evans, C. C. Monroe, Edward Lane, J. M. Turner, and R. W. Todd, Harrison County, J. H. Baker, John Johnson, Rev. Asberry, and J. J. Lillie; Anderson County, T. J. Smith and J. H. Henderson; Madison County, E. Wilson, E. M. Embry, G. T. Little G. B. Miller, J. H. Miller, and James A. White; Kenton County, J. F. Humans, W. H. Evans, C. Baxter, and Chas. Haggard; Oldham County, R. Reynolds and B. W. Kirtley; Laurel County, H. Patterson; Clark County, G. A. Benton, J. H. Mingo, H. C. Baker, and Dr. J. H. Holmes; Fleming County, B. K. Young; Mason County, R. Straws, S. W. Stevens, W. G. Allen, O. H. Nelson, D. Manus, and J. W. Calamuse; Knox County, G. T. Prosser; Mercer County, I. H. Welch, J. W. Frasier, Jesse Hunn, C. M. Wade, and C. Davis; Boyle County, Dr. W. R. Arthur, B. Tibb, A. C. Denny, J. W. Bates, Jas. Cowen, Chas. Tibbs, and Fenton Gill; Jessimai County, R. W. Fletcher; Barren County, M. D. Strange; Lincoln County, G. W. Gentry, J. M. Potter, G. H. Graham, J. J. Thompson, and Eli Withers; Boyd County, T. C. Williams; Nelson County, W. Johnson, J. E. Wood, and H. Bean; Bath County, Robert Foley; Marion County, John Wood, N. H. Spalding, and J. T. M. Dunnyhide; Carter County, C. G. Cannon; Greenup County, C. J. Cannon; Shelby County, J. L. Perrin, Jackson Talburt, and Jessie Smith; Henry County, L. A. McCoy, W. C. Jordan, J. A. Ross, L. A. Markey, and James Brown; Breckinridge County, C. C. Monroe, by telegram; Montgomery County, S. J. W. Spurgeon, N. W. Mc-

Gowen, Rev. McElroy; Clay County, William Potter; Scott County, Chas. Steele, Dr. B. Hickman, James Bailey, Jr., Scipio Thomas, Jr., John Pemberton, W. L. Bailey, Louis D. Smith, James Bailey, Sr., Henry Tarleton, Lonnie Thomas, E. J. Anderson, Ezra Miller, Spedden Smith, D. W. Seals, and W. H. Nelson; Carroll County, D. E. Smith; Christian County, R. N. Lander and Ned Turner; Greene County, J. J. Brown; Jefferson County, G. Ferguson, J. H. Garnett, W. H. Perry, J. M. Maxwell, W. H. Stewart, J. J. Johnson, Thomas Smith, C. C. Bates, T. R. Hammonds, R. T. Anderson, W. H. Lawson, J. H. Lawson, A. B. Stum, A. A. Russell, H. L. Buckner, J. H. Helms, N. R. Harper, P. R. Anderson, C. H. Pickens, D. Seebree, C. S. Morris, H. Conrad, J. Riley, E. L. Gilliam, Wm. Jamieson, G. W. Hatton, W. H. Venable, J. H. Frank, J. W. Lewis, T. M. Faulkner, Dr. H. Fitzbutler, E. P. Marrs, C. F. Snead, G. W. Ward, M. F. Robinson, J. N. Abby, C. H. Parrish, F. P. Williams, and J. I. Harper.

The following Committee on Rules were appointed: J. W. Woolfolk, D. D. Seebree, Richard Varian, R. W. Fletcher, C. S. Morris, J. M. Turner, and C. M. Wade. The committee on preparing a line of action for the convention to follow in prosecuting its important work consisted of J. W. Bates, R. H. C. Mitchell, N. R. Harper, G. W. Bowling, S. E. Smith, C. C. Monroe, G. H. Baird, W. Johnson, M. I. Warfield, G. T. Prosser, J. Johnson, and J. Allen Ross.

The election of permanent officers then resulted as follows: R. N. Landers, Chairman; W. H. Stewart, Secretary. The convention then adjourned to meet at 8 o'clock p. m. The hour arriving the convention was called to order by singing and prayer. After the minutes of the afternoon session were read and approved speechmaking was freely indulged in and among those making speeches were Dr. Fitzbuttler, Elder Ross, Rev. Bowling, C. S. Morris, J. Allen Ross, and Geo. Gentry. At the conclusion of which the convention adjourned until 9 o'clock the next morning. The convention was called to order by the Chairman, which was followed by singing and prayer. The minutes of the previous day were read and approved, after which Mr. Dudley Sebree, of Louisville, delivered a stirring and eloquent address, in which he said, "although there were only

8,000,000 negroes against 58,000,000 in this country that they were still passing laws to hold them down fast, notwithstanding the fact that they were already prostrate; that they could not bear more humiliation and must try to help themselves."

Rev. James M. Turner followed in an eloquent address, which was listened to with marked attention. Through Mr. N. R. Harper, of Louisville, the committee on ways and means reported the following resolutions, which were read and afterwards adopted by sections.

We, your Committee on Ways and Means, would most respectfully submit the following report:

1. We regard the practical resistance to the separate coach law lately enacted by the present Legislature as being a question of law, and dependent upon the courts for its overthrow unless repealed by the Legislature.

2. The proper way, the surest and the best way to reach an effective attack upon the measure in a lawful way appears to your committee to be to submit the whole question of our grievances at once into the hands of lawyers, whose duty it shall be to begin at once the preparation for an attack in the courts at any time, either before or after the measure goes into effect.

3. We recommend that each county in the State be placed, through some proper person or committee, in direct correspondence with a State executive committee for the collection of proper evidence and the more perfect control of a successful attack upon the measure through the courts. We recommend that each county organize with an executive committee, with a treasurer, and upon whom a central committee, organized an incorporated according to law, may draw for funds to carry on the resistance to the separate coach bill.

4. That a central committee be named and located in a city yet to be selected, to be composed of one member from each Congressional District and two from the State at large, to be appointed and authorized to incorporate this organization with power to appoint an executive committee to prosecute its work.

5. We recommend that an assessment be made for each family, widow or single person, throughout the Commonwealth of Kentucky, to be paid to the treasurer of the local organization in each community.

6. We recommend an organization of Anti-Separate Coach Association in each city, town, hamlet, village and community where there are colored citizens, and let the delegates from such localities form the county committees.

7. We recommend that this convention before it shall adjourn take a collection to be applied in printing and circulating an appeal throughout the State of Kentucky to lodges, societies, churches, and

other organizations for funds to defray all expenses in the resistance to this bill.

Signed:

J. W. BATES,
A. H. ROSS,
R. H. C. MITCHELL,
G. W. BOWLING,
N. R. HARPER,
D. D. SMITH,
W. JOHNSON,
M. I. WARFIELD,
G. T. FRASER,
J. JOHNSON,
G. H. BAIRD,
Committee.

Rev. Frank, of Louisville, objected to waiting for the bill to become a law before beginning the fight. He was in favor of commencing the contest at once.

The convention thought otherwise and adopted the first section as reported by the committee.

Jordan Jackson moved to amend the second section by allowing the Executive Committee of the State to consult with lawyers, instead of having committees from each county to attend to this department of the contest to be made, which was adopted.

Mr. Jackson made an argument against incorporating the association.

He offered the following resolution as a substitute for the fourth section:

That a State Central Committee composed of one member from each Congressional District and two from the State at large, be appointed and authorized to incorporate this organization with power to appoint an Executive Committee to prosecute its work.

On the motion being put to the house it was adopted.

Dr. E. E. Underwood then read the report of Committee on Resolutions as follows:

We, a part of the citizens of Kentucky and of the United States of America, knowing that all men are equal in their rights to share the privileges and protection afforded by civilized government; and that the maintenance of patriotism and insurance of prosperity, and the enjoyment of high mental and moral culture are dependent upon the ad-

ministration of justice, and that caste and class legislation destroy patriotism and morality; therefore, in accord with the constitution of the United States that guarantees to citizens the right to assemble and seek redress against mal administration, we, in convention assembled, enter our solemn protest against the enforcement of a law by the Legislature of Kentucky of 1892, known as the "separate coach bill."

Resolved, That in behalf of justice and the rights and privileges of citizens, we pledge ourselves to all honorable means to secure the repeal of said "separate coach bill," and to bring the matter into the courts through the bill of rights of the constitution of Kentucky, which declares that no separate emoluments or privileges be granted to any person or class of citizens for public services rendered to the State.

Resolved, That we do all in our power to induce the railroad management to neglect to put separate coaches upon their roads for any class of people on account of color, since it is not probable that the Legislature of Kentucky can compel the railroads to do an expensive and unreasonable and dishonorable thing not required in the chartered privileges of the railroads.

Resolved, That by the enactment of said law the State of Kentucky has departed from the pathway of impartiality and consistency; has perpetrated a flagrant injustice upon an inoffensive and patriotic race; has taken a backward step in civilization, and has placed a dark blot upon her fair escutcheon in the sisterhood of States.

Resolved, That we request all good citizens, regardless of color, to use their influence to render the separate coach bill void.

Resolved, That we encourage morality, economy and education in order to better prepare ourselves for self-protection against any injustice which an inhuman and unnatural prejudice may thrust against our progress.

Resolved, That we deplore all lawlessness committed by any class of citizens upon railway trains, and all other acts of violence that may be committed in any way contrary to the letter and spirit of the moral and civil law.

Resolved, That it is the sense of this convention that all lynchings and summary punishment meted out without due process of law in this State and other parts of the country are contrary to the best interests of our free institutions, and bring an unjust reproach upon the Nation.

Respectfully submitted,

S. E. SMITH, Chairman.
W. R. ARTHUR.
NED TURNER.
JOHN J. LILLIE.
G. W. GENTRY.
S. J. W. STURGEON.
E. E. UNDERWOOD, Secretary.
E. P. MARRS.
H. H. PROCTOR.
J. F. HUMMONS.
D. R. WILKINS.
H. FITZBUTLER.
CHARLES STEELE.

The report of the Ways and Means Committee was formaly adopted as a whole.

The resolutions drafted by the Committee on Resolutions were read by Secretary Underwood. The reading was frequently interrupted by applause.

Jordan Jackson moved that each Congressional district be called and a member of the Executive Committee be named.

The motion was carried and the members from each district retired to different parts of the hall and selected members for that committee.

The convention passed a resolution thanking the railroads, the newspapers, the citizens of Lexington, the church trustees and the presiding officers for their favors and kind treatment during the time the convention was in session.

A resolution was adopted thanking those members of the Legislature who had voted against the bill.

Rev. Frank, of Louisville, offered a resolution to the effect that the colored population endeavor on all occasions to defeat the ends of those who had voted for the bill.

The resolution was voted down.

Dr. Fitzbutler offered one to the effect that all white people should vote as they please, but that they must leave the colored men alone.

This was not acted upon.

Dr. Bowling presented a resolution requesting all preachers of the gospel to unite in preaching a sermon against the separate coach bill on August 1. Carried by a rising vote.

A resolution was offered that no colored excursions should be run by the colored people on Sunday or any other day.

This did not meet the views of the meeting, as they said that some of the railroads were opposed to the bill and would assist them in defeating it in the courts.

The following State Central Committee was appointed:

George W. Gentry, Stanford, Chairman; W. H. Stewart, Louisville, Secretary; R. N. Landers, Hopkinsville; J. C. Jackson, Lexington; W. H. McRidley, Cadiz; R. H. S. Mitchell, Henderson; J. W. Head, Russellville; S. E. Smith, Owensboro; E. P. Marrs, Louisville; C. H. Baxter, Covington; J. J. Lilly, Cyn-



HON. J. ALLEN ROSS,
Jericho, Ky.

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thiana; Ed. Chenault, Lexington; N. W. McGowan, Mt. Sterling; H. Patterson, Pittsburg. The convention adjourned sine die after singing "All Hail the Power of Jesus' Name."

The newly appointed Central Committee held a meeting and organized immediately after adjournment. Hon. Geo. W. Gentry, of Stanford, was chosen Chairman and Mr. W. H. Stewart, of Louisville, Secretary. The headquarters were located at Frakfort. An Executive Committee, consisting of nine persons, was appointed as follows: J. M. Turner, Chairman; E. E. Underwood, Secretary; J. Allen Ross, Eugene Evans, Edward Lane, S. E. Smith, Edward Chenault, Wm. H. Steward, J. H. Frank. In whose hands the work of prosecuting the movements of the opposition were placed.

THE PLANS OF THE COMMITTEES.

The State Central Committee has had the work of organizing the various counties throughout the State into county committees for the purpose of working systematically and effectually. A County Executive Committee, consisting of Chairman, Secretary and Treasurer and two lady members, has been elected in each county. Mass meetings have been called by which these committees have been elected. They have entire charge of the raising of funds in each county. Mass meetings have been held and speakers invited to address them in accordance with suggestions of the State Central and Executive Committees. The following is an incomplete list of speakers invited to address Anti-Separate Coach Mass Meetings throughout the State. This list is by no means a full one, and any other gentleman, whose name may not appear hereon, can be applied to and secured. As this is a race cause we hope that no lover of his race, either on or off the list, will decline the call of duty. Let us, with uplifted voices and burning energy, "cry aloud and spare not."

First District—Rev. G. W. Dupee, D. D., Paducah; Prof. W. H. Fox, Mayfield; W. G. Faulkner, Hickman; Dr. O. Durrett, Princeton.

Second District—Rev. R. H. C. Mitchell, Henderson; Prof. J. Mason, Hendeson; Prof. W. H. McRidley, Cadiz; Prof. A. H. Payne, Hopkinsville; Rev. J. H. Ealy, South Carrollton; Prof. W. H. Ross, Madisonville; Dr. O'Neal, Henderson; Richard Varian, Owensboro.

Third District—Rev. Robert Mitchell, Bowling Green; Prof. J. J. McCutcheon, Glasgow; Prof. C. C. Vaughn, Russellville; Prof. M. J. Malory, Scottsville; Rev. J. T. Muck, Franklin; John Garnett, Glasgow.

Fourth District—Prof. J. E. Wood, Elizabethtown; Rev. J J. Brown, Greensburg; Rev. Jackson, Bardstown; Rev. W. W. Wheeler; Hodgenville; Prof. P. T. Frazier, Cane Springs; Prof. F. D. Patterson, Elizabethtown; Rev. Fleming, Hartford; Rev. Chas. Stone, Bloomfield.

Fifth District—Rev. J. H. Frank, D. D., 1113 Magazine street, Louisville; Rev. Dr. Tyree, Pastor Quinn Chapel, Louisville; Rev. M. F. Robinson, Pastor Christian Church, Louisville; Dr. H. Fitzbutler, editor "Ohio Falls Express," Louisville; D. D. Sebree, Louisville; Rev. Dr. Gaddie, Louisville; Rev. E. L. Gilliam.

Sixth District—W. A. Gaines, Covington; Jerry Taylor, Covington; Rev. Hummings, Covington; Rev. Evans, Covington; Rev. Baxter, Covington; Henry Jones, Carrollton; Oscar Woods, Carrollton; Amos Estel, Milton; J. H. Baker, Cynthiana; John Warner, Falmouth; Thornton Davis, Newport; Wm. Moore, Newport; Henry Johnson, Warsaw.

Seventh District—Rev. D. R. Wilkins, Lexington; Rev. R. S. Adams, Lexington; Prof. G. P. Russell, Lexington; Prof. C. C. Monroe, Frankfort; R. Leslie Todd, Frankfort; J. W. Woolfolk, Frankfort; Prof. C. H. Steele, Georgetown; Rev. D. W. Seals, Georgetown; Prof. T. Augustus Reid, Paris; J. C. Graves, Paris; Thos. J. Craig, Versailles; J. K. Park, Versailles; J. J. Lillie, Cynthiana; Rev. Perry Withers, Owenton; Prof. T. C. Buford; New Castle; Rev. D. W. Kirtly, Lagrange.

Eighth District—Prof. J. S. Hathaway, Berea; J. A. White, Richmond, Pharris White, Lowell; Rev. Richey, Lancaster; Robert Fletcher, Camp Nelson; Rev. Geo. Burks, Danville; Rev. J. W. Frazier, Harrodsburg.

Ninth District—T. L. Routt, Maysville; Prof. D. S. Bruce, Flemingsburg; J. T. Robinson, Germantown; Dr. S. W. Stevens, Maysville.

Tenth District—S. J. W. Spurgeon, Mt. Sterling; G. A. Benton, Winchester; Horace Colerain, Winchester; R. H. Holly, Mt. Sterling; Dr. J. H. Holmes, Winchester.

Signed on behalf of Committees,

G. W. GENTRY, Chairman,
W. H. STEWARD, Secretary,
State Central Committee.
J. M. TURNER, Chairman,
E. E. UNDERWOOD, Secretary,
State Executive Committee.

All moneys, as raised by these committees, have been sent to the Farmers' Bank of Frankfort subject to order of the State Executive Committee. Notice of the amount was at the same time sent to the Secretary of the committee. All plans for raising funds for this committee, and all appeals for aid must come from them. They have the entire management of all cases, the employment of attornies and the oversight of all that is done. Hon. John Feland, Jr., and Hon. John P. Newman were employed by them in the present case of Anderson vs. L. and N. Railroad Company. They have also had a conference with Hon. Robert Ingersoll, and corresponded with Hon. George Hoadly, ex-Governor of Ohio, and Ex-Governor J. B. Foraker, of Ohio, with a view of securing one of them later on. This committe also has charge of the Centrailia case at Louisville, which involves some fine legal points. Hon. N. R. Harper, of that city, has charge of this case, and will undoubtedly be able to win. The responses to calls for aid have not been entirely satisfactory, while the people have done fairly well, still they must and will do better. Some aid has been received from the American Protective Association, of which Mr. H. F. Downing, of New York, is President.

Shortly before the law went into effect the following circular was sent throughout the State, appealing for aid:

Frankfort, Ky., May 1st, 1893.

To the Colored Citizens of the Commonwealth of Kentucky:

But a few weeks now remain until the infamous and repugnant "separate coach law," against which enactment we have so persistently and earnestly labored, shall go into effect. No doubt exists but that the railroads are preparing to conform to the spirit and letter of the law, and that very soon the words, "This coach for colored people" will greet our eyes at every railroad station in the State.

Nearly one year ago, in convention assembled, we resolved to assert our dignity of manhood and right of citizenship by testing the constitutionality of such manifest injustice in the courts, and appointed

committees to devise plans for the raising of funds, and to procure legal counsel for the prosecution of our work.

In accordance with an address issued some months ago each county of the State has been organized for the purpose aforestated, and the work of raising money has been carried forward. We have now no time to idle. Onward! must be our watchword. "Conquer we must; for our cause it is just."

We are fast approaching the crisis which is to test our race pride and demonstrate our love of fair play and hatred of color legislation.

Your committees have a few recommendations to make that we may successfully carry on the work before us.

Recognizing the need of Divine aid, it is requested that the third Sunday in June be observed by all our churches and Sunday Schools as a day of prayer for the success of our cause; that special sermons be preached and addresses made, and that a collection be lifted to be turned over to the County Executive Committee of each locality. It is also requested that each secret, benevolent or charitable society, at its first regular meeting in June, shall make a donation to the local organization to also aid our work. Let every colored university, college, normal school and public school set apart a day during the first week in June, at which time funds shall also be raised In each and every county in the State it is recommended that mass meetings be held to awaken public interest and that some of the gentlemen whose names appear in the appended list, or others, be invited to be present and make such addresses as may aid our cause. Let every colored man, woman and child who has a vestige of race love go down in his pocket and make a hasty, willing and liberal contribution to save us this stinging disgrace. Let us vindicate our race pride with our pocket-books. We must have money, and it at once.

As soon as money is raised it is urgently requested that the chairman and secretary of each County Executive Committee shall at once send notice of the same to the secretary of the State Executive Committee, Dr. E. E. Underwood, 337 Washington Street, Frankfort, and that the money raised be forwarded to the Farmers' Bank of Kentucky, of Frankfort, which was decided upon at our last committee meeting as our depository.

Any county needing blank books, &c., for raising funds can obtain the same by addressing the secretary of the State Executive Committee, as above.

Your committees, acting under your directions, have already taken steps for the employment of counsel and have been assured by some of the best constitutional lawyers in the State that the law is glaringly unconstitutional. With such hopeful assurance we have but to press forward.

Let us be inspired with new courage, reconsecrate ourselves to

our work, and let us take hold with vim and vigor, believing that our efforts will be rewarded with victory.

Yours for the race.

G. W. GENTRY, Chairman,
W. H. STEWARD, Secretary,
State Central Committee.
J. M. TURNER, Chairman,
E. E. UNDERWOOD, Secretary,
State Executive Committee.

THE SEPARATE COACH BILL.

BY E. G. ARNETT.

Mr. E. G. Arnett, the writer of this poem, was an exemplary young man, a student of the State Normal School, and a brilliant scholar. His early death robbed the race of a brilliant thinker, an ardent worker and an earnest advocate of justice and right.—Ed.

Tell me not friend of creation,
That in a country of the free
To a sep'rate coach depression,
The Kentucky negro must agree.
He is a native of this country,
He is a protector of this sphere,
Then tell not in words of sorrow,
That such must be his portion here.

Has he ever proved a traitor;
Has he shrunk from any foe;
Has he fled in time of danger;
However great has been the woe?
No, he's ever done his duty
To make this world like one above,
He has done his duty ever
To make his country one of love.

Within the race a thousand preachers,
Who strive to make the future good,
Twelve hundred teachers of the nation,
Who for the race have stood.
And a host of private good men,
Who are noble men by birth,
Who are lovers of their country,
Who are owners of the earth.

Yet amid the sacred regions
It is said by many a mouth,
That the negro of Kentucky
Must share the curse that's met the South
But 'mid Kentucky's noble negroes
There I find a wakeful few,
Who stood before Senate chambers
Trying this bill to subdue.

When Legislature came together,
The R. R. Bill was in the throng,
Behold a negro delegation—
More or less two hundred strong—
A voice from Etheopia crying
O Government, we appeal to thee!
As citizens we are denying
That such is justice to the free.

Heaven whispered from above us,
Voices whispered from below us,
"Will they pass it; can they pass it"
Justice answers no! no!! no!!!
But injustice still contended,
That the bill a law should be
Such a law is detrimental
To a country of the free.

Yet the State has dared to pass it,
Over all our strong protests,
To crush a race, the world would reverence
To curse a race, that God has plessed;
Passed it by a goodly number.
In the Senate, we relate
Ten to plead for justice only
Against the words of twenty-eight.
When to the Lower House t'was carried
It lingered for a month or more,
But on voting day they passed it—
Fifty-two to twenty-four.

Enough to cause the living mortal,
Yea, the dead beneath the sod,
To unite their feeble voices
In one earnest prayer to God:
O, Thou great and holy Father—
Thou who doeth all things well,
Will Thou forbid class legislation,
Such will make our home a hell?

But our protests were all rejected,
Our prayers answered other ways,
But God somehow will bless the effort,
And glory give in future days.

It is past; the dreaded question,
But we'll renew with greatest zest,
Then if it still remains we're honored,
We made honorable protest.
Then, O men, who fought it bravely,
Accept much thanks, and grateful praise.
Before the race as chandeliers,
Thy names shall live in future days.

But shall we submit to such depression,
Just because the bill has past?
No; we will stand and plead for justice,
We will fight it till the last,
In the name of truth and justice,
We will fight it till we die.
We will defeat it in the future,
"Or tell to God the reason why."



REV. W. H. ANDERSON,
Evansville, Ind.
Plaintiff in the celebrated case of W. H. Anderson vs. L. & N. Railroad Company, brought to test the Constitutionality of the Separate Coach Act of Kentucky.



Mrs. W. H. ANDERSON.
Evansville, Ind.

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CHAPTER IV.

REV. W. H. ANDERSON OF EVANSVILLE, IND., SELECTED TO MAKE THE TEST—HIS TRIP INTO KENTUCKY AS NARRATED IN THE PETITION—TRIAL AT OWENSBORO, KY. DEMURRERS FILED BY THE DEFENDANT—PETITIONS IN FULL AS PREPARED BY THE ATTORNEYS FOR PLAINTIFF—DEFENDANT'S POSITION—AUTHORITIES CITED.

The incidents which led to the present Separate Coach case now pending in the United States Court at Owensboro, in which Rev. W. H. Anderson, of Evansville, Ind., is plaintiff, and the L. & N. R. R. Co. is defendant, are fully and fairly presented in the following petition, which we publish in full, together with the legal proceedings which have since ensued, and upon which legal process was issued on the 22d day of December, 1893. Later on in January, 1894, the case was called in the Circuit Court of the United States at Owensboro, before Judge Barr, at which the defendant, through its attorneys, Hon. Wilbur F. Browder and Hon. Reuben A. Miller, set up a general demurrer to both counts. Judge Feland and J. H. Lott, Esq., both made able arguments befo re the court on behalf of the plaintiff. The court suggested a postponement of the case in order to give His Honor time to carefully weigh and consider all matters of legal bearing in the premises. To which the attorneys on both sides agreed, and a postponement was taken until June 1st, at which time a decision will be given. In the meantime the attorneys on both sides have been busy at work looking up the law on the matter and preparing briefs upon which the demurrer will be ruled on. In order that the reading public might be informed of our position from a legal standpoint on the matter we publish in full the briefs as prepared and presented to the court by each one of the attorneys for the plaintiff.

In the Circuit Court of the United States

FOR THE

6TH CIRCUIT AND DISTRICT OF KENTUCKY.

OWENSBORO DIVISION.

W. H. ANDERSON, Plaintiff,

AGAINST THE

LOUISVILLE & NASHVILLE R. R. CO., Defendant

BRIEF FOR PLAINTIFF.

In order that the court may more readily understand the questions involved in this case, we here copy in full the petition of the plaintiff, upon which process was issued on the 22d day of December, 1893—

"The plaintiff, W. H. Anderson, states that he is a respectable well-behaved and law-abiding citizen, and resident of the State of Indiana, domiciled in the city of Evansville, in said state, and has been for several years last past, and that the defendant, The Louisville & Nashville Railroad Company, is a corporation created by and existing under the laws of the State of Kentucky, of which State it is a citizen.

"He further states that the defendant owns and leases, controls and operates a number of lines of railroad running in and through the State of Kentucky and thence into and through several other States, and among others it so owns and operates and controls a line of railroad running from said city of Evansville, in Indiana, through the State of Kentucky via Henderson, Madisonville and Guthrie to the city of Nashville, in the State

of Tennessee, and in so operating said railroad the defendant is engaged, and has been for several years engaged in the business of a common carrier of passengers and freight throughout the whole extent of said line. Plaintiff makes all the foregoing allegations part of and applicable to both the following paragraphs:

"Paragraph 1—

"He further states that on or about the thirtieth (30th) day of October, 1893, the plaintiff and his wife, being then in said city of Evansville, and desiring to go to Madisonville, in the State of Kentucky, purchased from the ticket agent of defendants, at its depot in Evansville, two full, first-class tickets from Evansville, Ind., to Madisonville, Ky., and paid him therefor in cash the usual fare—to wit., the sum of —— dollars—which tickets, duly stamped and dated, were then delivered to him by said agent and entitled him and his said wife to be carried as first-class passengers in a coach or car provided and furnished suitably for passengers holding such tickets from the station of said railroad in said city of Evansville to the station of said railroad in said city of Madisonville, upon any regular passenger train of defendant passing through said station and stopping for the purpose of receiving and letting off passengers. He further states that he and his said wife did on that day, when the regular passenger train known as the "Providence Accommodation," was getting ready to start from said city of Evansville to said city of Madisonville, got aboard of said train and entered the coach usually designated the "Ladies' Coach" and took seats therein, said coach being the hindmost car of said train. They state that soon after said train started the conductor thereof, who, as the agent of the defendant, had the charge and control of said train, came into said coach and demanded from plaintiff and received from him the said tickets for him and his wife, and in lieu thereof gave them checks or coupons, showing that they were entitled to so ride upon said train as first-class passengers to said city of Madisonville, and they did so continue to ride on said train and in said coach and occupy the seats they had originally taken without molestation or interference on the part of any one until said train entered the State of Kentucky, at the city of Henderson, when the said

conductor so in charge of said train came to them and required them to give up their said seats in said coach and assigned to them seats in the compartment of the coach immediately in front of them, which was the only other coach on said train and had been divided into two compartments, on one of which compartments was printed in a conspicuous place words in plain letters, indicating that said compartment had been set apart exclusively for colored persons, the other compartment thereof and said rear coach both having upon them in a conspicuous place appropriate words in plain letters, indicating that they were set apart exclusively for white persons. Plaintiff states that he and his said wife refused to occupy the compartment to which they were so assigned by the said conductor, and thereupon said conductor wrongfully and illegally refused to carry them further on his said train and put them off of same, without right and against their consent.

Plaintiff states that by the wrongful act of the defendant, through its said agent, in refusing to allow them to ride further on said train in said ladies' coach and on the seats originally taken by them and in putting them off of said train upon their refusal to occupy the compartment in the front coach so assigned to them by said conductor, they have been damaged in at least the sum of fifteen thousand dollars ($15,000).

"Paragraph 2—

"The plaintiff further states that on the 19th day of December, 1893, he and his said wife, being again in the city of Henderson, Ky., where they had been so refused passage on said train, went to the depot of the defendant and from defendant's ticket agent stationed there purchased and paid for two first-class tickets from said station of Henderson to said station of Madisonville, Ky., and according to the stipulations of said tickets the defendant undertook and agreed to carry them as first-class passengers on any of its passenger trains running between said stations. He states that in a few minutes thereafter the regular passenger train of defendant, running from said city of Evansville through the State of Kentucky to the said city of Nashville, in the State of Tennessee, on its aforesaid line of railroad, and stopping at said cities of Henderson and Madisonville, and known as the mail train, and carrying

the mails of the United States, reached said station of Henderson, and plaintiff and his said wife approached said train and presented to the brakesman or flagman who was standing on the steps of the platform by which passengers were required to enter said train, their said tickets and demanded entrance to what was known as the ladies' coach of said train, it being the hindmost coach thereof.

He further states that they were admitted by said brakesman or flagman into said ladies' coach, and that they, without molestation or interference on the part of any one, selected and took seats which were then unoccupied in said coach. He states that said coach bore in a conspicuous place thereon in plain letters appropriate words, indicating that said coach was set apart for the exclusive use of white passengers, and that in front of it was another coach, which was divided into two compartments by a substantial wooden partition with a door therein, and upon one of the compartments was placed conspicuously in plain letters appropriate words, indicating that it was set apart exclusively for white passengers, and the other compartment bore also in a conspicuous place words in plain letters, appropriately indicating that it was set apart exclusively for colored persons, and this was the only coach or compartment of said train so set apart for colored people.

He further states that soon after said train started the conductor thereof, who had been placed by the defendant in charge of it, entered said ladies' coach, in which plaintiff and his wife were seated, as above stated, and demanded of them their tickets, which were presented to him by plaintiff and were accepted by said conductor, who in lieu thereof gave them two checks, indicating that they were entitled to ride on said train as first-class passengers to said city of Madisonville, but remarking that said tickets were from a station within the State of Kentucky to another station within said State, said conductor notified plaintiff and his wife that he could not allow them, being colored persons, to occupy said coach, and he thereupon assigned to them, or offered to assign to them, seats in that compartment of the front coach which bore upon it the words aforesaid, indicating that it was set apart exclusively for colored people. The plaintiff and his said wife refused to occupy said compartment to which they were thus assigned, and said

conductor thereupon wrongfully and illegally refused to carry them on his train and without right and against their will put them off at Robard's Station, which they were then approaching, which was a station about thirty miles short of their destination.

He states that by reason of the refusal of the conductor to carry them further on said train in said ladies' coach, and of his wrongfully putting them off of said train upon their refusal to enter said compartment, he and his said wife were damaged in at least the sum of fifteen thousand dollars $15,000.)

Wherefore he prays judgment against the defendant for the sum of thirty thousand dollars ($30,000) in damages, and for his costs and for all proper relief.

JOHN FELAND & SON,
Attorneys for Plaintiff.

To this petition and each paragraph thereof the defendant has filed a general demurrer upon the ground that no cause of action is stated in either or both said paragraphs, and the case has been submitted upon this demurrer.

1. DOES A COMMON CARRIER HAVE SUCH ABSOLUTE CONTROL OF ITS TRAINS AND PASSENGERS, AT COMMON LAW, AS TO AUTHORIZE IT TO SEPARATE ITS PASSENGERS IN THE MANNER STATED IN THIS PETITION.

The first question to be considered by the court is whether, at common law, taking all the facts stated in the petition to be true, the defendant had the right upon the occasions stated in the petition or upon either of them to require the plaintiff and his wife to surrender the seats they had taken in the ladies' coach or rear car of the train and occupy the compartment assigned to colored people in the smoker or front coach or force them to get off the train, in case of their refusal to do so.

If it be true, as contended by the eminent counsel for the defendant, that the railroad company is the absolute owner of the railroad and has complete and perfect control over all its trains and their operations, and its agents and servants have the unquestioned right to assign all passengers to coaches and seats and arbitrarily require them to change seats and coaches, "without rhyme or reason," provided only that in the

opinion of these agents and servants these seats are as comfortable and safe as those the passengers had selected, then, indeed, there is no cause of action set up in either paragraph of this petition.

But we think it is very easy to demonstrate from all the text books and decisions, including those relied on by the defendant's counsel, that such is not the law in this country or in England and never was. In discussing this subject, Mr. Morawetz says:

"The national importance of railroads and other public highways is obvious. They are essential to the prosperity of the country in its present state. Hence it is that the representatives of the people are authorized to grant valuable donations and franchises, such as land grants, the right to exercise the power of eminent domain, the right to receive municipal aid, etc., to railroad companies in order to enable them to accomplish their great enterprises. The grant of these public bounties to a railroad company is, however, in all cases subject to the implied condition that the grantee shall assume an obligation to maintain its railroad as a thoroughfare for the use of the public.

"It has been held accordingly that a railroad company which has accepted State aid is under obligations to the State to operate every material portion of its line for the use of the public until discharged from its obligation by the government.

"The duties to the public which devolve upon railroad companies by reason of their acceptance of the aid of the government re-inforce and supplement the duties which are imposed upon them by the common law as common carriers for hire. A railroad company is under an obligation to the State to maintain its road in operation, because the road was constructed with the public aid for a public purpose. The usual duties of a common carrier then attach by virtue of the employment in which the company is engaged. By the common law every common carrier must carry for all, to the extent of his capacity, without undue or unreasonable discrimination in charges or facilities.

"These duties devolve upon railroad companies, by reason both of their employment as common carriers and of the acceptance of the public aid in the creation of their enterprises. The obligation of railroad companies to maintain their roads in operation for the use of the public necessarily implies an obligation not to exact more than reasonable charges or tolls, for otherwise the public might be deprived of the benefits in

consideration of which the public aid was granted. It is equally clear that the obligation to carry for the public includes an obligation to carry for all the members of the community without partiality." Private Corporations, Sections 1,116 and 1,117.

In Messenger vs. Penn. R. R. Co., 36 N. J. Law, 407, Chief Justice Beasley said:

"In my opinion a railroad company constituted under statutory authority is not only by force of its inherent nature a common carrier, as was held in the case of Palmer vs. Grand Junction Ry. Co., 4 M. and W. 749, but it becomes an agent of the public in consequence of the powers conferred upon it. A company of this kind is invested with important prerogative franchises, among which are the rights to build and use a railway and to charge and take tolls and fares. These prerogatives are grants from the government, and public utility is the consideration for them. In the use of such franchises all citizens have an equal interest and equal rights, and all must, under the same circumstances, be treated alike. It cannot be supposed that it was the legislative intention, when such privileges were given, that they were to be used as private property at the discretion of the recipient, but to the contrary of this, I think an implied condition attaches to such grants, that they are to be held as a quasi public trust for the benefit, at least to a considerable degree, of the entire community. In their very nature and constitution, as I view this question, these companies become, in certain aspects, public agents; and the consequence is, they must, in the exercise of their calling, observe to all men a perfect impartiality."

To the same effect is the language used by Judge Cooly, in his work on Torts, 2d edition, page 334:

"The business of common carriers is a quasi public business; a term which we employ because it is often made use of, and because it indicates that the public have some rights in respect to the business which do not exist in the case of business of a purely private character. No man becomes a common carrier except with his own consent, but when he does so he must conform to those principles of the common law under which the business has grown up and which have always required of the common carrier impartiality in his business as between individuals; he must carry for all, and he must carry under impartial regulations. But the common law does not determine what shall be the scope of his business; he may carry certain kinds of property only, or all kinds of property; or, if he be a carrier of persons, he may, perhaps, limit the business to the carriage of certain classes of persons only; the discrimination being



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based on distinctions, which are not objectionable as being arbitrary, but having some principle to support them. * * * * The law allows to carriers the liberty of making rules and regulations for the control and management of their business, subject to this restriction only, that the rules and regulations must not be unreasonable and that they must not conflict with any which may lawfully be prescribed by any competent legislative authority. Competent authority must be that of the State, in the case of commerce entirely within the State, and that of the United States, in case of foreign and inter-state traffic.

"Among the regulations often established by carriers of passengers is one setting aside certain carriages for the exclusive use of women and their escorts. Such a regulation violates the right of no one who is excluded, and for whom accommodations are elsewhere provided. Another, not so plainly justifiable, is a rule setting aside certain carriages within which alone will persons of color be received and carried. Such a regulation has been sustained when the accommodations furnished were equal to those supplied for other passengers, but has been held invalid when no such impartial accommodations had been provided. "

In the case of the Chicago & Northwestern Railway Co. vs. Williams, 55th Ill. 185, the question before the court was simply whether a railroad company, which, by statute and the common law, is a common carrier of passengers, in a case where the company, by their rules and regulations, have designated a certain car in their passenger train for the exclusive use of ladies, and gentlemen accompanied by ladies, can exclude from the privileges of such a car a colored woman, holding a first-class ticket, for no other reason except her color.

It did not appear in the case whether a separate coach equally as comfortable and convenient had been provided for colored ladies; but it did appear that the plaintiff, a colored woman of good character and reputation and decently dressed had been capriciously excluded by the brakesman from the ladies' coach.

The court, in discussing this case, said:

"The case turns somewhat on what are reasonable rules, and the power of railroad companies to establish and enforce them.

"It is the understood right of railroad companies to make all reasonable rules and regulations for the safety and comfort of passengers traveling on their lines of road. It is not only their right, but their duty to make such rules and regulations. It is

alike to the interest of the companies and the public that such rules should be established and enforced, and ample authority is conferred by law on the agents and servants of the companies to enforce all reasonable regulations made for the safety and convenience of passengers.

"It was held in the case of the Illinois Central R. R. Co. vs. Whitteman, 43 Ill. 423, that for a non-compliance with a reasonable rule of the company a party might be expelled from a train at a point other than a regular station.

"If a person on a train becomes disorderly, profane or dangerous and offensive in his conduct, it is the duty of the conductor to expel such guilty party, or, at least, to assign him to a car where he will not endanger or annoy the other passengers. Whatever rules tend to the comfort, order and safety of the passengers the company is fully authorized to make, and is amply empowered to enforce compliance therewith.

"But such rules must always be reasonable and uniform in respect to persons.

"A railroad company can not always capriciously discriminate between passengers on account of their nativity, color, race, social position or their political or religious beliefs. Whatever discriminations are made must be on some principle or for some reason that the law recognizes as just and equitable and founded in good public policy. What are reasonable rules is a question of law, and is for the court to determine, under all the circumstances of each particular case.

"In the present instance the rule that set apart a car for the exclusive use of ladies and gentlemen accompanied by ladies is a reasonable one, and the power of the company to establish it has never been doubted.

"If the applicant is to be denied the privilege of the "ladies' car," for which she was willing to pay, and had paid full compensation to the company, a privilege which is accorded alike to all women, whether they are rich or poor, it must be on some principle or under some rule of the company that the law would recognize as reasonable and just. If she was denied that privilege by the caprice of the brakeman and conductor, and under no reasonable rule of the company, or, what is still worse, as the evidence would indicate, through mere wantonness on the part of the brakesman, then it was unreasonable, and therefore unlawful. It is not pretended that there was any rule that excluded her, or that the managing officers of the company had ever given any directions to exclude colored persons from that car. If, however, there was such a rule, it could not be justified on the ground of mere prejudice. Such a rule must have for its foundation a better and a sounder reason, and one more in consonance with the enlightened judgment

of reasonable men. An unreasonable rule that effects the inconvenience and comforts of passengers is unlawful, simply because it is unreasonable. The State vs. Overton, 4 Zab. 435."

"In the case of the Westchester & Philadelphia R. R. Co. vs. Miles, 55, Penn. 209, it was submitted that no one could be excluded from a carriage by a public carrier on account of color, religious belief, political relations or prejudice; but it was held not to be an unreasonable regulation to seat passengers so as to preserve order and decorum, and prevent contacts and collisions arising from well known repugnances, and therefore a rule that required a colored woman to occupy a separate seat in a car furnished by the company equally as comfortable and safe as that furnished for other passengers was not an unreasonable rule.

"Under some circumstances this might not be an unreasonable rule.

"At all events, public carriers, until they do furnish separate seats equal in comfort and safety to those furnished for other travelers, must be held to have no right to discriminate between passengers on account of color, nativity or race alone."

We have quoted from this case very largely, because taken in connection with the quotations we have taken from the other authorities before cited, we think the court will have no trouble in arriving at a conclusion as to what the common law, irrespective of the Federal constitution or any statute, is upon the subject.

We have not before us this Pennsylvania case as published, and have to depend on these and other references to it in order to gather what it really decides. From these, however, it is clear that in this instance, the company had established a general rule separating the whites and blacks, and it was done to preserve order and decorum and prevent contacts and collisions arising from well known repugnances. We do not know the date of this decision, but it was close about the time of the War of the Rebellion, and was probably prior to the adoption of the Fourteenth Amendment. In the Illinois case there was no such rule, nor was there any claim that the accommodations offered the plaintiff were equal to those she was required to surrender, and therefore the court admits merely that under some circumstances this might not be an unreasonable rule.

Nor have we, at this time, access to the Federal Reporter, and for this reason, we are not, therefore, prepared to enter into any

very minute criticism of the cases on this subject reported in it. We have, however, heretofore, carefully read those cases, and we feel assured that a careful examination of them will show that they are exactly in line with the authorities we have quoted, and the intimations they give that under certain circumstances, separations might be justified are only indicative of the opinion of the court that in such a case as this one at bar, it would not be allowed. But in all these cases, the point was not whether, when the accommodations are equally safe, commodious, convenient and pleasant, the races might be separated. In every instance, it clearly appeared from the evidence that the coaches were not equal, and the plaintiffs were, therefore, allowed to recover on that ground, whatever might have been the result under other circumstances.

In the case of Coger vs. Packet Co., 37 Iowa, 145, the trial judge instructed the jury as follows:

"The defendant, as a common carrier of passengers, had the legal right to adopt reasonable rules and regulations concerning the convenience, comfort and safety of its passengers, such for example, as admitting to the ladies' cabin such gentlemen only as are accompanied by ladies, seating parties or families traveling together at the same table, or adjacent to each other, the seating of gentlemen unaccompanied by ladies, in the gentlemen's cabin, and the like.

"These and other like reasonable rules and regulations may be adopted and enforced by the common carrier of passengers for him.

"But all persons unobjectionable in character and deportment who observe all reasonable rules and regulations of the common carrier, who pay, or offer to pay, first class fare, are entitled irrespective of race or color, to receive upon the boats of the carrier first-class accommodations."

And the Supreme Court of the State sustained and approved these instructions.

In the case of the L. & N. R. R. Co. vs. Smith, decided by the Superior Court on the 14th day of November, 1888, the court, Judge Ward delivering the opinion of the court, said:

"A passenger free from personal objections, which will deprive him of the right of selection, has the right to travel in the car best adapted to his or her comfort, provided all the seats in that car are not occupied in advance: if they are, then he must accept a seat in another car, though not as comfortable in all respects; or he may wait until another train arrives.

The court will observe from all these cases, that, while in some of them, it is admitted that a carrier may establish rules separating the passengers, it is nowhere admitted that this separation may be based on race, color or nativity alone. And in every instance it is declared that the rules on this subject must be established, and that they must be just and reasonable under all the circumstances of the particular case. No rule, which is purely arbitrary, and may or may not be enforced at the caprice of the carrier, its agents or servants, or which is founded upon prejudice alone will be upheld.

In this case, and upon the trial of the demurrer, the court can act only on the facts presented by the petitioner, which, of course, are to be taken as true. According to the petition, the plaintiff and his wife, were persons in every way unobjectionable, they held first class tickets, they were allowed to enter the ladies' coach as they had the right to do, and they found and selected unoccupied seats; in both instances, after they had trav- up their seats, and compelled either to leave the train, or take a eled several miles, without objection, they were required to give up their seats, and compelled either to leave the train, or take a seat in another coach.

No rule or reason was given for this requirement, nor is there any evidence that the coach to which they were thus assigned was equal in comfort or convenience or safety to the one which they had selected. It does appear that the coach to which they were invited was divided into two compartments, and that one of these compartments—that in front—had written on it the words: "For Colored Passengers Only," and that the other compartment and the coach they were required to leave had written on them the words: "For White Passengers Only."

We contend that the arbitrary ordering of these people to give up their seats in one coach, and requiring them to occupy seats in another coach, without any reason therefor, even if the coaches and seats were in equally good condition, are violations of the rights of the plaintiffs, and the court will not presume in favor of the defendant, either that it had a good reason for the rule, or indeed that it had such a rule at all, or that the accommodations were equal to those which they were required to surrender. In other words, when a carrier attempts thus to interfere with the ordinary rights and privileges of the passenger,

the burden is upon it to show some excuse or justification, and consequently the only way to meet the facts alleged in this petition is to answer, and deny the facts charged, or else, admitting them, set up such facts in avoidance as, according to law, would warrant the defendant in its conduct.

Outside of these decisions and authorities, and the general principles upon which they rest, it is a fact, within the judicial knowledge of this court, that for a number of years past, no effort has been made to divide the travel on the color line, except in cases, where the carrier has been required to do so by the positive provisions of some legislative enactment. This alone would be sufficient to warrant this court in requiring this defendant to "show cause" in this case.

But this brings us to the second point or question in this case, and that is;

2. WHETHER THE CARRIER MAY JUSTIFY HIS CONDUCT AS ALLEGED IN THIS CASE AS DONE IN OBEDIENCE TO WHAT HAS BEEN BEFORE DESIGNATED AS THE SEPARATE COACH LAW OF KENTUCKY.

It will not be improper for us to remark in the beginning that we know the attorneys for the defendant will not be so uncandid as to deny that its officers and agents in these transactions, were attempting to comply with the provisions of that Act; and that if it had not been promulgated as the law of Kentucky, they would not have interfered with the plaintiff and his wife in their occupancy of the seats they had selected.

This now celebrated act went into effect on the 3rd day of October, 1893, just a short time before these events took place, and in order that the court may have the law before it, we have quoted it in full:

CHAPTER 40.

AN ACT TO REGULATE THE TRAVEL OR TRANSPORTATION OF THE WHITE AND COLORED PASSENGERS ON THE RAILROADS OF THIS STATE.

Be it enacted by the the General Assembly of the Commonwealth of Kentucky:

Section 1. Any railroad company or corporation, person or persons, running or otherwise operating railroad cars, or coaches by steam or otherwise, on any railroad line or track within this

State, and all railroad companies, person or persons, doing business in this State, whether upon lines of railroads owned in part or whole, or leased by them; and all railroad companies, person or persons, operating railroad lines that may hereafter be built under existing charters, or charters that may hereafter be granted in this State; and all foreign corporations, companies, person or persons organized under charters granted or that may hereafter be granted by any other State; who may be now, or may hereafter be engaged in running or operating any of the railroads of this State, either in part or in whole, either in their own name or that of others, are hereby required to furnish separate coaches or cars for the travel or transportation of the white and colored passengers on their respective lines of railroads. Each compartment of a coach divided by a good and substantial wooden partition, with a door therein, shall be deemed a separate coach, within the meaning of this act, and each separate coach or compartment shall bear in some conspicuous place, appropriate words, in plain letters, indicating the race for which it is set apart.

Section 2. That the railroad companies, person or persons, shall make no difference or discrimination, in the quality, convenience or accommodations in the cars or coaches, or partitions, set apart for white and colored passengers.

Section 3. That any railroad company or companies, that shall fail, refuse, or neglect to comply with the provisions of sections 1 and 2 of this act, shall be deemed guilty of a misdemeanor, and upon indictment and conviction thereof shall be fined not less than five hundred, nor more than fifteen hundred dollars for each offense.

Section 4. That all circuit courts in which railroads are operated in this state shall have complete jurisdiction over such offenses.

Section 5. The conductors or managers on all railroads shall have power, and are hereby required, to assign to each white or colored passenger his or her respective car or coach or compartment; and should any passenger refuse to occupy the car, coach or compartment to which he or she may be assigned by the conductor or manager said conductor or manager shall have the right to refuse to carry such passenger on his train, and may put such passenger off the train; and for such refusal, and putting off the train, neither the manager, conductor nor railroad company shall be liable for damages in any court.

Section 6. That any conductor or manager on any railroad, who shall fail or refuse to carry out the provisions of section 5 of this act, shall, upon conviction, be fined not less than fifty nor more than one hundred dollars for each offense.

Section 7. The provisions of this act shall not apply to employes of railroads, or persons employed as nurses, or officers in charge of prisoners.

Approved May 24, 1892.

It will be observed by the court that while it is stated in the caption of this act that it is intended to regulate the travel or transportation of the white and colored passengers on the railroads in this state, there is no reason given, no cause shown, either in the caption or body of the act why the travel or transportation of passengers needs regulating; that is to say, the raison d'etre, as the French express it, is not stated.

But while the intent and purpose of the act, and the reason why the legislature thought the act ought to be passed are not expressed, the real object is apparent, and it is not improper or illegitimate for this court to look into the history of the country, and at the circumstances surrounding the passage of this law, to discover that object.

Even in cases where the purpose of an act is expressed in the title, it is competent for the courts to determine in this way and for themselves whether the statute was enacted in good faith. In the case of Merriwether vs. Barbee, 136 U. S., 319, the Supreme Court said:

"The presumption that this statute was enacted in good faith, for the purpose expressed in the title, namely, to protect the health of the people of Minnesota, cannot control the final determination of the question, whether it is not repugnant to the Constitution of the United States. There may be no purpose upon the part of a legislature to violate the provisions of that instrument, and yet a statute by it, under the forms of law, may by its necessary operation, be destructive of rights granted or secured by the Constitution. In such cases the courts must sustain the supreme law of the land by declaring the statute unconstitutional and void. This principle of constitutional interpretation has been often announced by this court. In Henderson, etc., vs. New York, etc., 92 U. S., 259-268, where a statute of New York imposing burdensome and almost impossible conditions on the landing of passengers from vessels employed in foreign commerce, was held to be unconstitutional and void as a regulation of such commerce, the court said that "in whatever language a statute may be framed, its purpose must be determined by its natural and nameable effect. In People vs. Compagnie Generale Transatlantique, 107 U. S., 59-63, where the validity of a statute of the same state, which was

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attempted to be supported as an inspection law authorized by section 10 of article 1 of the Constitution, and was so designated in its title, it was said: A state cannot make a law designed to raise money to support paupers, to detect or punish crime, to guard against disease and to cure the sick, an inspection law, within the constitutional meaning of that word, by calling it so in the title." So, in Soon Hing vs. Crowley, 113 U. S., 703-710: "The rule is general, with reference to the enactments of all legislative bodies, that the courts cannot inquire into the motives of the legislature, in passing them, except as they may be disclosed on the face of the acts, or inferable from their operation, considered with reference to the country and existing legislation. The motives of the legislatures, considered as the purposes they had in view, will always be presumed to be to accomplish that which follows as the natural and nameable effect of their enactments." In Mugler vs. Kansas, 123 U. S., 623-661, the court, after observing that every possible presumption is to be indulged in favor of the validity of a statute, said that the judiciary must obey the Constitution rather than the law-making department of the government, and must, upon its own responsibility, determine whether, in any particular case, the limits of the Constitution have been passed. It was added: "If, therefore, a statute purporting to have been enacted to protect the public health, the public morals or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution." Upon the authority of those cases, and others that could be cited, it is our duty to inquire, in respect to the statute before us, not only whether there is a real or substantial relation between its avowed objects and the means devised for attaining those objects, but whether by its necessary or natural operation it impairs or destroys rights secured by the constitution of the United States.

We take it for granted from all this that whether the object or intent of a statute be expressed in the title or not, and if expressed, whether that expression be legitimate or not, if, under all the circumstances, with a view to the persons and things and localities it really effects, its inevitable result is to impair rights guaranteed by the Constitution, and the result will be in direct conflict with the spirit and purposes of that instrument, it will be adjudged to be void."

In the same line was the judgment of Mr. Justice Field in the case of Ho Ah Kow vs. Nunan in the Circuit Court of the United States for the District of California, in which Sawyer, Circuit Judge, concurred, andwhich is reported 18 Am. Law

Reg., 676. In this case it was held that an ordinance of San Francisco, to the effect that every male person imprisoned in the county jail should, on his arrival at the jail, have the hair of his head clipped or cut to a uniform length of an inch from the scalp thereof, and under it the duty of the sheriff to have this ordinance enforced, was really intended to operate prejudicially to the Chinese and to no one else, and was, therefore, unconstitutional. In delivering his opinion, Justice Field took occasion to say:

"The class character of this legislation is now none the less manifest, because of the general terms in which it is expressed. * * * We cannot shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench, we are not struck with blindness and forbidden to know as judges what we see as men; and when an ordinance, though general in its terms, only operates upon a special race, sect or class, it being universally understood that it is to be enforced as against that race, sect or class, we may justly conclude that it was the intention of the body adopting it that it should only have such operation, and treat it accordingly. We may take notice of the limitation given to the general terms of an ordinance by its practical construction as a fact in its history, as we do in some cases that a law has become practically obsolete. If this were not so, the most important provisions of the Constitution, intended for the security of personal rights, would, by the general terms of an enactment, often be evaded and practically annulled. Brown vs. Piper, 1st Otto 42, Ohio Loan and Trust Co. vs. Debolt, 16 Howard,435. The complaint in this case shows that the ordinance acts with special severity upon Chinese prisoners, inflicting upon them suffering altogether disproportionate to what would be endured by other prisoners, if enforced against them. * * *

"Many illustrations might be given where ordinances, general in their terms, would operate only upon a special class, or upon a class, with exceptional severity, and thus incur the odium, and be subject to the legal objection of intended hostile legislation again them."

Further on the learned judge says: "It is certainly something in which a citizen of the United States may feel a generous pride that the government of this country extends protection to all persons within its jurisdiction; and that every blow aimed at any of them, however humble, come from what quarter it may,, is "caught upon the broad shield of our blessed Constitution and our equal laws." Judge Black's argument in the Fossat case, 2 Wall, 703.

And Judge Cooley, in commenting on this opinion, said:

"It is a matter of every-day observation that legislatures are accustomed to treat constitutional limitations as imposing no moral obligation whatever upon their members. If, therefore, their desires lead them to evade or break over the limitations, and they can do so, without encountering direct and positive prohibitions, they do not hesitate to do so, and they violate the spirit of of the law without scruple, while they keep within a strict construction of its words. Sometimes this may be done with impunity, because it is done under a pretense of something lawful, which no one is at liberty to disprove or dispute; as congress prohibited the circulation of state bank issue, while pretending merely to provide for the collection of a revenue from them; being in Bank v. Ferness & Wall, 533. But when the purpose is apparent in the legislation itself, construed in the light of such facts as the court may notice judicially, so that extensive evidence is not necessary to unfold it, there is no reason why the judiciary should hesitate to stamp as unconstitutional the indirect and circuitous evasion of the fundamental law, any more than they should a violation that is direct and avowed."

Of course, in the act before us, there is no attempt anywhere to conceal the purpose of the law, viz., to require white and colored passengers to be separated in different coaches or compartments; but there is an evident attempt to conceal the motive for this separation. It might puzzle a foreigner not acquainted with the present history and present conditions of the two races in America to give a reason for the existence of this strange law; but there is no man in America who would for a moment hesitate to tell you that its whole purpose and design was to pander to a weak and unreasonable prejudice against the colored people. They are in the minority; in point of education and the possession of property they are inferior to the dominant race, having been released a quarter of a century ago from a state of absolute bondage to this dominant class, many of whom resisted this emancipation of their slaves to the death. During this struggle all the bitter race prejudices that hate and self-interest could awaken were aroused, and still linger in the breasts of many otherwise good people living in the Southern States, where this institution was regarded as the basis of their civilization. To such vast and unreasonable proportions had this prejudice grown that almost every right to which a free human being and citizen

could claim title was denied to these people by the local governments, and it became necessary for the general government to interfere, and by constitutional provisions to guarantee to them those elementary rights which our forefathers had declared to be the inheritance of every human being.

But, despite the protection afforded them by the amendments to the Constitution, the old spirit of caste still lingers in the ruling class, and many indirect methods of evasion have been resorted to by them. In the present instance it is a curious fact that, while of about 350,000 voters in Kentucky, there are about 60,000 or 70,000 blacks, in the general assembly which passed this bill there was not a single representative of this despised race. In the administrative and judicial departments of the state they had not a single repsensative. This matter was conceived, formulated, passed, approved and became a law, in spite of the protests of the whole colored race—men, women and children—in Kentucky, and no human being ever objected to it, or opposed it in any way for any other purpose than that it tended to degrade and humiliate this class. It was skillfully drawn to prevent differences and discriminations in the accommodations to be afforded the two races, which provision was intended obviously to prevent the appearances of that race discrimination which underlay the whole scheme, and, if possible, to evade the constitutional amendments. It was intended to sugar-coat the bitter pill, which was to be forced down the throats of a helpless race.

It was well known to everybody, and may now be taken for granted, that with the administration of the courts of the state and the laws, almost entirely in the hands of judges and juries of the white race, and especially of that class or party of the whites who were educated to regard the blacks as inferior in every possible respect, the only infraction of this law that will ever meet with prompt and adequate punishment will be that of not separating the races into separate compartments. Whether these compartments shall be equal in their preparations and equipments will never be regarded as a matter of any serious importance so long as it is not the whites, who are given cause to complain of unjust discrimination.

In a word, while the letter of this law appears to be as fair and reasonable as any statute ever enacted, it purposely

provides innumerable methods of insulting and degrading the colored people, and like a whited sepulchre it is within full of rottenness and dead men's bones.

To illustrate by this case, which is stated as fairly for the carriers as any one ever can be. The rear coach on these trains (there being only two regular passenger cars to each train) was reserved entirely for white passengers, and still retained its position as the ladies' coach. The front coach was divided into two compartments—one for the white smokers and the other for all the colored people. We all understand that for the attainment of the greatest comfort, and what is universally done, is to have one coach reserved for ladies and families, and one set aside for men alone, who enjoy a freedom—smoking, drinking, playing cards, etc., which is not indulged in generally in the rear or ladies' coach. According to the arrangement of these special trains only one compartment of one coach was set for all the colored people, and, though it might be as clean, as nice, as richly furnished as any coach could be a train in which there is set apart to ladies and families a distinct coach or compartment.

But, conceding that on every train were as many and as well equipped coaches for blacks as whites, the only possible reason why anybody could desire a separation of the races would be that the blacks were an inferior—less cleanly, less respectable class of animals, by contact with whom the whites would be contaminated.

All such legislation tends to widen the gap that separates the two races and foster and encourage prejudices and passions as baseless and unjust as ever entered the breast of man, and thus to prevent the full recognition of that equality before the law, which it is the boast of our government to maintain. The evil effects of such an act as this are not confined to the inconveniences and the humiliations of those whose interest or pleasure requires them to enter upon the railroad trains of the country; but they are felt more or less distinctly by every person of that race in every transaction of life.

If it be conceded, then, that the purpose of this legislation was to require the colored people to occupy alone and altogether a particular or particular compartments or parts of a train, and to exclude them from all the others, on account of

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If it be conceded, then, that the purpose of this legislation was to require the colored people to occupy alone and altogether a particular or particular compartments or parts of a train, and to exclude them from all the others, on account of

a prejudice existing in the minds of some white people against them, and not on account of any real disqualification on their part, we contend that this act of the Kentucky Legislature cannot be used to shield the defendant in this case because:

A. IT IS IN VIOLATION OF THE FOURTEENTH AMENDMENT TO CONSTITUTION OF THE UNITED STATES, which provides that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any persons of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law"?

Soon after the adoption of this amendment to the Constitution of the United States the congress of the United States enacted a law for the avowed purpose to insure to all persons the benefits of its provisions, and in it they undertook to impose a punishment upon all persons who should deprive another of the rights and privileges which they considered secured by this amendment.

A colored woman was soon afterward forbidden to enter the ladies' coach of a railroad train, the action of the conductor being based, as was claimed, upon the fact that he had reason to suspect that she was not a respectable person. There was no claim that he was authorized to do this by any law of the state in which the transaction took place.

The Supreme Court of the United States, in deciding this case, did not deny that the rights of the plaintiff had been violated, indeed did not undertake to decide that question; but held that the Fourteenth Amendment did not act, and was not intended to act, upon individuals or citizens directly; but was simply intended to prevent the states from interfering with or abridging by legislation the privileges, rights and immunities of the citizen. That the idea was that, unless laws of that kind were passed, the local tribunals and laws would enforce these privileges, rights and immunities, and the courts of the United States could only take jurisdiction of such violations of these privileges, etc., as were done under color or protection of some such state. This opinion was delivered by Mr. Justice Bradley, and he was sustained only by a divided court. However, it will be observed that as it was not in the

opinion of the majority of the court, within the jurisdiction of the court to afford the plaintiff redress, they carefully abstained from the expression of any opinion on the merits of the case, that is as to whether the privileges or immunities of the plaintiff had been abridged, or she had been deprived of her rights or the equal protection of the laws; although, if the majority had regarded that she had not been deprived of any right, and that the action of the conductor had been warranted by law, they would certainly have taken occasion to strengthen their opinion by saying so.

But Mr. Justice Harlan differed from the majority of the court as to the constitutionality of the civil rights act, and the jurisdiction of the Federal Courts over the cases, and, therefore, it became necessary for him, in his dissenting opinion, to determine whether the plaintiff had been deprived under the Fourteenth Amendment of her rights.

We do not intend, in quoting what is said here by Mr. Justice Harlan, to insist that it has the authority of a judicial determination of the question; but we know the court will regard it as the opinion of a most eminent lawyer and judge as to what the law is, and we ask only that it be considered for what it is worth in that way. Having discussed the relations of railroad corporations to the public and shown that they were public institutions in which the people had certain rights, that the right of a colored person to use an improved public highway, upon the terms accorded to persons of other races, is as fundamental, in the state of freedom in this country, as are any of the rights which my brethren concede to be so far fundamental as to be deemed of the essence of civil freedom. 'Personal liberty consists,' says Blackstone, 'in the power of locomotion, of changing situation ,or removing one's person to whatever place one's own inclination may direct, without restraint, unless by due course of law.' But of what value is the right of locomotion if it may be clogged by such burdens as congress intended, by the act of 1875, to remove? They are burdens which lay at the very foundation of the institution of slavery as it once existed. They are not to be sustained, except upon the assumption that there is, in this land of universal liberty, a class which may still be discriminated against, even in respect of rights of a character so necessary

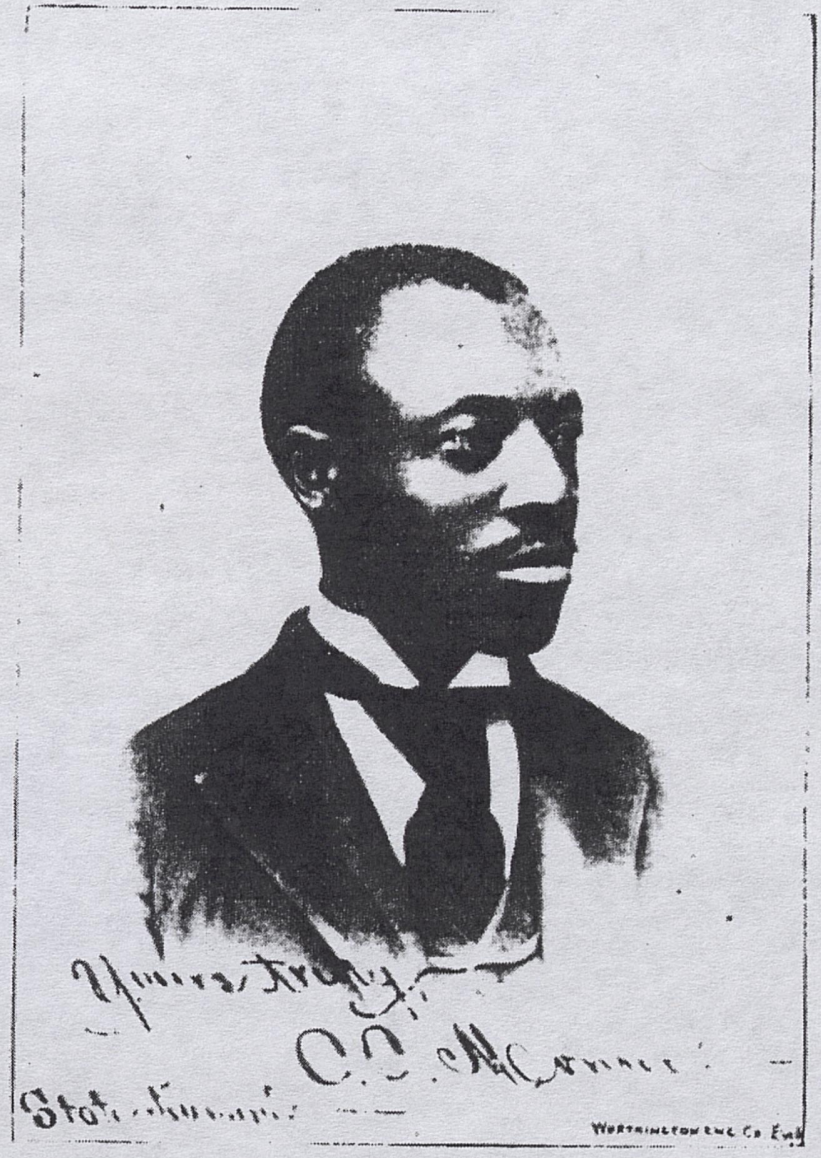
and supreme, that, deprived of their enjoyment in common with others, a freeman is not only branded as one inferior and infected, but, in the competition of life, is robbed of some of the most essential means of existence; and all this solely because they belong to a particular race, which the nation has liberated."

To understand more clearly the force of this language, let us recur a moment to the act of 1875, and see what are some of the burdens of the right of locomotion were intended by it to be prevented .

"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 and water, theatres and other places of public amusement, subject only to the conditions and limitation established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of seritude."

If, therefore, the language of Justice Harlan means anything, it means that in his opinion the making of any discrimination between citizens on account of color is in violation of the right of the citizen as quaranteed by the Constitution. But in pursuing this subject further he says:

"It is, therefore, an essential inquiry what, if any, right, privlege, or immunity was given, by the nation, to colored persons, when they were made citizens of the Stae in which they reside? Did the constitutional grant of state citizenship to that race, of its own force, invest them with any rights, privileges and immunities whatever? That they became entitled, upon the adoption of the Fourteenth Amendment to 'all the privileges and immunities of citizens in the several states' witin the meaning of Secition 2 of Article 4 of the Constitution, no one, I suppose, will for a moment question. What are the privileges and immunities to which that clause of the constitution, they became entitled- To this, it may be answered, generally, upon the authority of the adjudged cases, that they are those which are fundamental in citizenship in a free republican government, such as are 'common to the citizens in the latter states under their constitutions and laws by virtue of their being citizens.' Of that provision it has been said, with the approval of this Court, that no other one in the constitution has tended so strongly to constitute the citizens of the United States one people, Ward vs. Maryland, 12 Wall, 418; Cornfield vs. Caryell, 4 Wash. C. C. 371; Paul vs. Virginia, 8 Wall. 168; Slaughter house cases, 16 Wall. 36.



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Although this court has wisely forborne any attempt, by a comprehensive definition, to indicate all the privileges and immunities to which the citizens of a state is entitled, of right when within the jurisdiction of other states, I hazard nothing, in view of former adjudications, in saying that no state can sustain her denial to colored citizens of other states, while within her limits of privileges or immunities, fundamental in republican citizenship, upon the ground that she accords such privileges and immunities only to her white citizens, and withholds them from her colored citizens. The colored citizens of other states within the jurisdiction of that state, could claim, in virtue of section 2 of act 4 of the Constitution, every privilege and immunity which that state secures to her white citizens. Otherwise it would be in the power of any state, by discriminating class legislation against its own citizens of a particular race or color, to withhold from citizens of other states, belonging to that prescribed race, when within her limits, privileges and immunities of the character regarded by all courts as fundamental in citizenship; and that, too, when the constitutional guaranty is that the citizens of each state shall be entitled to "all privileges and immunities of citizens of the several states." No state may, by discrimination against a portion of its own citizens of a particular race, in respect of privileges and immunities fundamental in citizenship, impair the constitutional rights of citizens of other states, of whatever race, to enjoy in that state all such privileges and immunities as are there accorded to her most favored citizens. A colored citizen of Ohio or Indiana, while in the jurisdiction of Tennessee, is entitled to enjoy any privilege or immunity, fundamental in citizenship, which is given to citizens of the white race in the latter state. It is not to be supposed that any one will controvert this proposition.

"But what was secured to colored citizens of the United States —as between them and their respective states—by the national grant to them of state citizenship? With what rights, privileges or immunities did this grant vest them? There is one, if there be no other—exemption from race discrimination in respect of any civil right belonging to citizens of the white race in the same state. That, surely, is their constitutional privilege when within the jurisdiction of other states. And such must be their constitutional right in their own state, unless the recent amendments be splendid baubles, thrown out to delude those who deserved fair and generous treatment at the hands of the nation. Citizenship in this country necessarily imports at least equality of civil rights among citizens of every race in the same State. It is fundamental in American citizenship that, in respect of such rights, there shall be no discrimination by the State or its officers or by individuals or corporations

exercising public functions or authority, against any citizen because of his race or previous condition of servitude. In United States vs. Crinkshank, 92 U. S. 542, it was said at page 555, that the rights of life and personal liberty are natural rights of man, and that "the equality of the rights of citizens is a principle of republicanism." And in Ex Parte Virquinin, 100 U. S. 334, the emphatic language of this court is that "one great purpose of these amendments was to raise the colored race from that condition of infirmity and servitude in which most of them had previously stood into perfect equality of civil rights with all other persons within the jurisdiction of the States." So in Strauder vs. West Virginia, 100 United States, 306, the court, alluding to the Fourteenth amendment, said: "This is one of a series of constitutional provisions having a common purpose, namely, securing to a race recently emancipated, a race that through many generations had been held in slavery, all the civil rights that the superior race enjoy." Again, in Neal vs. Delaware, 103 U. S. 386, it was ruled that this amendment was designed, primarily, "to secure to the colored race, thereby invested with the rights, privileges and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons."

To show more clearly that the majority of the court did not undertake to decide that the refusal to allow a colored person to enter a "ladies' coach" was not a discrimination against him, we will quote a short portion of the opinion:

Now conceding, for the sake of the argument, that the admission to an inn, a public conveyance or a place of public amusement, on equal terms with all other citizens, is the right of every man and all classes of men, is it any more than one of those rights which the States, by the Fourteenth amendment, are forbidden to deny to any person? And is the constitution violated until the denial of the right has some State sanction or authority? Can the act of a mere individual, the owner of the inn, the public conveyance or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury, properly cognizable by the laws of the State, and presumably subject to redress by those laws until the contrary appears?" In another place the court says: "Inn-keepers and public carriers, by the laws of all the States, so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws

themselves make any unjust discrimination, amenable to the prohibitions of the fourteenth amendment, Congress has full power to afford a remedy under that amendment and in accordance with it."

It will be remembered that the separate coach law had not been conceived at that time, and that the court was talking about the power of Congress in regard to such legislation, and not of any power the courts might have to remedy it.

The case of the Railroad Company vs. Mississippi, 133 U. S. 587, has been relied to show that the Supreme Court has held that a statute similar to this enacted by the state of Mississippi was constitutional, but an examination of that case, as hereafter shown, will satisfy the court that this question was especially waived, and the only point really decided was that the state might require carriers to provide separate coaches within its limits for white and colored passengers.

The question involved here is so intimately blended with the first proposition that we discussed, that we feel compelled to return again to the direct question whether this legislation is discriminating and intended to dscriminate, we wish to call the especial attention of this court to a decision of the Supreme Court upon an analogous subject, which we think conclusively shows what ought to be the construction of this act. The case is that of the Railroad Co. vs. Bunn, reported in 17th Wallace, 445. The facts showed that in 1863 Congress granted additional powers to the railroad company, with a provision "that no person should be excluded from the cars on account of color." In this condition of things, one Catherine Bunn, a colored woman, on the 8th of February, 1868, anterior to the adoption of the fourteenth and fifteenth amendments to the constitution, bought a ticket to come from Alexandria to Washington. No tickets were distinguished as for white persons or colored persons, nor for any particular sort or class of cars. All were exactly alike.

When the woman went to take her place in the cars there were standing there two cars, alike comfortable; the one, however, set apart for colored persons and the other for "white ladies and gentlemen accompanying them;" the regulation having been that in going down from Washington to Alexandria, the first should be occupied by the former and the last

by the latter; and that in coming back the use should be simply reversed.

When plaintiff approached she attempted to enter the "ladies' coach," but was prevented by force by one of the employes. who told her that he was directed to require her to enter the other car, and she was compelled to do so, and thus accomplished her journey. But the woman sued the company for damages. On the trial the defendant introduced evidence tending to show that the ejectment had not been with insult or with unnecessary violence; that the regulation of separating white from colored passengers was one that was in force on the principal railroads in the country; that unless the said regulation had been adopted on this road travel upon it would have been seriously injured; and that the establishment of such a regulation itself increased the expenses of the road considerably, and that without such a regulation the receipts of the road would have decreased.

The counsel for the railroad asked the court to instruct the jury that if by a standing regulation certain cars were appropriated and designated for the use of white persons and certain others for the use of colored, and all th cars were equally safe, clean and comfortable, and if this sort of regulation was one in force on the principal railroads of the country, and one which unless it had been adopted on this road the travel on it would have been seriously injured and the receipts of the road decreased, and if the establishment of such a regulation itself increased the expenses of the road considerably, then in case no insult nor greater force than was necessary had been used, and the plaintiff, after taking a seat in the car appropriated to colored persons, was carried safely to her journey's end, she could not recover.

The court refused their instruction, the jury gave the plaintiff $1,500 damages, and the company appealed to the Supreme Court of the United States.

After disposing of other questions made in the case, the court, through Mr. Justice Davis, who delivered the opinion of the court, said:

"This leads us to consider what Congress meant in directing that no person should be excluded from the cars of the company on account of color.

The plaintiff in error contends that it has literally obeyed the direction, because it has never excluded this class of persons from the cars, but, on the contrary, has always provided accommodations for them.

"This in an ingenious attempt to evade a compliance with the obvious meaning of the requirement. It is true the words taken literally might bear the interpretation put upon them by the plaintiff in error, but evidently Congress did not use them in any such limited sense. There was no occasion in legislating for a railroad corporation to annex a condition to a grant of power, that the corporation should allow colored persons to ride in its cars. This right had never been refused, nor could there have been in the mind of any one an apprehension that such a state of things would ever occur, for self-interest would clearly induce the carrier--south as well as north--to transport, if paid for it, all persons, whether white or black, who should desire transportation. It was the discrimination in the use of the cars on account of color, when slavery obtained, which was the subject of discussion at the time, and not the fact that the colored race could not ride in the cars at all. Congress, in the belief that this discrimination was unjust, acted. It told this company, in substance, that it could extend its road in the District, as desired, but that this discrimination must cease, and the colored and white races in the use of the cars be placed on an quality. This condition it had the right to impose, and in the temper of Congress at the time it is manifest the grant could not have been made without it. It was the privilege of the company to reject it, but to do this it must reject the whole legislation with which it was connected. It can not accept a part and repudiate the rest."

Thus it will be seen that the requirement that separate coaches should be provided for colored people was by the whole bench of the Supreme Court, before the adoption of the fourteenth amendment, regarded as a discrimination against the colored people, although the separate coaches provided for them may have been as safe, as clean and as comfortable as those provided for the whites. It is true that in the separate coach law the whites are xcluded from the coaches provided for the colored people; but it is transparent that the purpose of that cause was not to deprive the whites of any prvilege or immunity, but to give the appearance of equality in its provisions to the act, and, as we before urged, make it unobjectionable in appearance if possible, though we cannot see how this would really help the measure in any way, as, because the

whites, on account of their color, are deprived of a constitutional right and are willing to submit to it is no reason why the blacks should be required to submit to a similar deprivation of right.

The conclusion on this branch of the case, it seems to us, is that while at common law and before the adoption of the fourteenth amendment a rule might be established by a railroad company making discriminations and separating passengers according to sex, condition, etc., still the rule must always be founded on some good reason, and not upon prejudice as to race or color, and must not be arbitrary nor capricious, and then can never be enforced except when the accommodations forced upon the passenger are equal in every respect to any others provided on the train. Such a rule can never be enforced on part of a line only or at the will of the employes in charge of a train, nor can it be so enforced as to require or permit a passenger to be changed from one seat to another, or from one car to another after he has been allowed to select and take possession of his seat.

It does not appear in this case that the company had ever made such a rule, and it does not appear that if it had been made it was not attempted to enforce it outside of the state, not until after the plaintiff and his wife had been allowed to select their seats. Neither does it appear that the seats to which they were assigned were equal in any respect to those they were required to surrender. Therefore, if we were to be governed by the common law alone the demurrer to the petition would have to be overruled, and the defendant would be required to plead and show all these facts affirmatively or deny that plaintiff and his wife were treated as alleged.

But if the common law did permit the separation of white and colored passengers on any account the fourteenth amendment makes colored persons citizens and declares that no State should make or enforce any law to abridge their privileges and immunities as such, and as it results that if this petition is good at common law the only reason why the demurrer should be sustained must be found in the fact that the separation of white and black passengers is warranted in Kentucky by the separate coach law. We think that we have showed that this law in its purpose and effect is in direct con-

flict with the letter and spirit of the fourteenth amendment and with the second section of the fourth article of the constitution, and that by these provisions of the national constitution no citizen of the United States can be deprived in any degree of the privileges and immunities of a citizn, either by the laws of his own State or of another State within whose limits he may happen to be at the time.

But if we are mistaken in all these propositions we think there are still others which render the separate coach law unconstitutional and prevent its enforcement.

B. IT IS IN VIOLATION OF THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES.

The act in express terms refers to all railroads operated within the State and to all persons traveling on them while within the States. The owners or persons operating any railroad are required to furnish separate coaches or cars for the travel or transportation of the white and colored passengers on their respective lines of railroad, and the conductors or managers on all railroads shall have power and are hereby required to assign each white or colored passenger his or her respective coach or compartment, and should any passenger refuse to occupy the seat assigned him by the conductor or manager may put him off the train. These provisions show clearly that while it was only intended that these separate coaches should be put on trains while running within the State, it was clearly intended that every railroad in the State, whether engaged in inter-state commerce or not, and every passenger on a train while it was within the State, whether he was a citizen of Kentucky or of any other State or country, or whether he got on or off within or without the State, should be assigned according to his color to his separate coach. To explain exactly what we mean, this act applies as fully to the trains of the defendant, a common carrier engaged in inter-state commerce between eight or ten States, just as it does to the trains of a railroad being, ending and running entirely within the State, and every passenger train of the defendant, so long as it remains on Kentucky soil, is compelled to have these separate coaches and to divide all passengers on them according to color.

We contend that so far as this act applies at all to carriers of inter-state commerce, or to citizens of other States, or to passengers getting on or off the trains outside of the State, it is a plain attempt to regulate commerce between the States, and is therefore in conflict with the third sub-section of Sec. 8 of Article 1 of the constitution of the United States, which declares that "the Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes."

This clause of the constitution has been more frequently discussed and continued by the courts and the text books than any other single section of that instrument, and, as Chief Justice Waite said in the case of Hall vs. De Cim, 109 U. S. 488, "the line which separates the powers of the States from this exclusive power of Congress is not always distinctly marked, and often times it is not easy to determine on which side a particular case belongs. Judges not unfrequently differ in their reasons for a decision in which they concur. Under such circumstances it would be a useless task to undertake to fix an arbitrary rule by which the line must in all cases be located. It is far better to leave a matter of such delicacy to be settled in each case upon a view of the particular rights involved."

However, there are many subjects which indirectly or incidentally affect inter-state commerce which the States are allowed to retain their power over and to act upon through legislation, and, for instance, any bona fide exercise of what are known as the police powers of the State will not be considered as in conflict with this provision, nor will the construction of bridges or other improvements on a national waterway, which do not directly impose a burden upon inter-state or foreign commerce be regarded as obnoxious to the condemnation of this provision; but certainly under whatever guise it comes or for what purpose enacted, any law which attempts to regulate fares or freights between the States or to impose any direct burden upon inter-state commerce, or to interfere directly with its freedom, does even act directly upon the power of Congress. Upon these general rules the courts have agreed, and they have been exemplified in numerous decisions of the Supreme Court, with which this court is familiar.



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Louisville, Ky.

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The question is whether this act does in any way attempt to regulate inter-state travel, or place any burden upon it, or interfere with its freedom in any way. It seems to us that the answer is so plain that it does that discussion ought to be regarded as unnecessary. But the decision of the Supreme Court of the United States in Louisville & C. Railroad Co. vs. Mississippi, in which the provision of an act similar to this requiring the railroads in Mississippi to provide separate coaches was adjudged not to be unconstitutional, has been relied on to support this, and we suppose it will be in this case, and therefore we must be pardoned for calling the attention of the court especially to the facts of that case.

The railroad company was a carrier of inter-state commerce, and it had been indicted in the State courts of Mississippi for not providing separate coaches on its trains within the State for white and colored passengers and found guilty, as the facts were not denied. An appeal was taken to the Supreme Court of the State of Mississippi by the company on the ground that as an attempt to regulate commerce between the States it was unconstitutional and void. The charge made in the indictment, as we understand it, was that then separate coaches were not provided for passengers getting on and off the trains within the State of Mississippi, and the Supreme Court of Mississippi in its opinion was particular to lay stress upon the fact that "the omission for which the indictment was found was the neglect to provide the 'separate' coaches, and not for failing to assign to such separate coaches inter-state travelers, and that they were not called upon to determine whether the legislation in question would be valid if applied to persons other than those taken up within the State to be set down within it." If we are not greatly mistaken, the court nowhere directly states that it does not apply to such other persons, but the argument is that in so far as it does apply to these domestic travelers it is constitutional. The court afterwards in the course of the opinion concedes it "to be settled that transportation of persons is as much commerce as transportation of property, and as a calling that the inter-state transportation of persons is inter-state commerce, and that the State may not regulate such commerce, since it is national in its character and requires uniformity of regulation. It may also be conceded

that absence of legislation by Congress on the subject is indicative of its will that such commerce shall be free and untrammeled." And again: "But how does the statute interfere with inter-state commerce, if it be true that it has no application save to those traveling wholly within the State? It is manifest from the plea that the statute is resisted because it imposed a burden upon the carrier and not upon commerce."

With this view of the facts of the case and upon the idea that this burden on the carrier within the State could not be regarded as a burden upon inter-state commerce, the Supreme Court of the State affirmed the judgment of the lower court.

It is evident that the court could not be held to have decided more than that either the provision as to separate coaches only applied to domestic travel, and was, therefore, constitutional or that in so far as it did apply to such travel it was not unconstitutional, and that the placing this burden of providing separate coaches on the carrier for this purpose was not an interference with interstate commerce.

If it be claimed in the case at bar that our statute is similar to the Mississippi statute and should be construed as the Supreme Court of Mississippi decided their statute, then certainly the first count of our petition is not affected in any way by the statute of Kentucky, as it does not apply to such a case.

The Supreme Court of the United States, in considering this case upon writ of error, 133 U. S., p. —, was itself careful to anticipate any misconstruction of its opinion, and in the first place said that "it will be observed that this indictment was against the company for the violation of Sec. 1, in not providing separate coaches, and not against a conductor for failing to assign each passenger to his separate compartment. * * * The question is limited to the power of the State to compel railroad companies to provide within the State separate accommodations for the two races. Whether such accommodation is to be a matter of choice or compulsion does not enter into the case."

In the second place it said: "In this case the Supreme Court of Mississippi held that the statute applied solely to commerce within the State, and that construction being the construction of the statute of the State, by its highest Court, must be accepted as conclusive here."

Consequently with the question limited solely to the point whether the State has the right to require a carrier to attach a separate coach for colored people who are domestic travelers, to their trains inside the State, the court affirmed the decision by a majority decision.

This majority, however, did not give it as their opinion that this Mississippi act only applied to domestic commerce, while two of the justices, Harlan and Breadley, disregarding the effect of the construction placed upon the statute by the Supreme Court of Mississippi, in a dissenting opinion held that the act was an attempt to regulate inter-state commerce, and consequently void.

We are not familiar with the Mississippi statute, and do not feel called upon to construe it; but, as before indicated, if human language means anything our statute was intended to apply to every train and every passenger while within the state and to every carrier, and as this court is not controlled by any decision of the highest court of Kentucky on this subject it is left free to reach its own conclusion and in coming to that conclusion will be guided not only by the plain letter of the statute, but by such authoritative decisions of the Supreme Court as throw light upon it.

Taking it for granted that the law does in terms apply to inter-state travel, especially in that section which requires all persons to be assigned according to color to separate compartments, and that the conductor on these trains did exactly what he was evidently trying to do, obeyed the statute literally when he required the plaintiff and his wife to be assigned to the colored compartment, the only remaining question is, whether the act, in so far as it thus applied to the facts of this case, is unconstitutional and void. On this question there are two cases which we think are direct and conclusive.

The first, that of Hall vs. DeCuir, 95 U. S., 485. In that case, as the court will remember, it appeared that the legislature of Louisiana had made a law prohibiting common carriers of passengers engaged within that State from making any rules or regulations discriminating between passengers on account of race and color. The Supreme Court of Louisiana had construed and to require them to give all persons traveling in that State that act to apply to all those engaged in inter-state commerce

upon the public conveyances employed in such business equal rights and privileges in all parts of the conveyance, without distinction or discrimination on account of race or color, and the Supreme Court, in this instance, yielded to that construction without discussing it at all and proceeded to determine whether such an act was constitutional. In doing so the court said: "We think it may safely be said that State legislation which seeks to impose a direct burden upon interstate commerce as to interfere directly with its freedom does encroach upon the exclusive power of Congress. The statute now under consideration, in our opinion, occupies that position. It does not act upon the business through the local instruments to be employed after coming within the State, but directly upon the business as it comes into the State from without, or goes out from within. While it purports only to control the carrier when engaged within the State, it must necessarily influence his conduct to some extent in the management of his business throughout his entire voyage. His disposition of passengers taken up and put down within the State or to be taken up within to be carried out can not but affect in a greater or less degree those taken up without and brought within, and sometimes those taken up and put down without. A passenger in the cabin set apart for the use of whites without the State must, when the boat comes within, share the accommodations of that cabin with such colored persons as may come on board afterward, if the law is to be enforced."

In our case a coach which in another State was set apart for the use of all ladies of every class, race and color must as soon as it reaches the State be set apart for one race and all other persons excluded.

The court says it was to meet just such a case as this that the commercial clause in the constitution was adopted, and concludes therefore that this act is unconstitutional and void.

In the case of the Wabash & St. Louis Railway vs. Illinois, 118, U. S. 557, the court, in a well considered opinion, states that the commerce clause was among the most important of the subjects which prompted the formation of the constitution, and that it would be a very feeble and almost useless provision but poorly adopted to secure the entire freedom of commerce among the States, which was deemed essential to a more perfect union by the framers of the constitution, if at every stage of the transportation of goods and chattels through the country the State within whse limits a part of this transporta-

tion must be done could impose regulations concerning the price, compensation or taxation or any other restrictive regulation interfering with and seriously embarrassing this commerce."

As has been before stated, in the separate coach case from Mississippi the majority of the court held that they were concluded by the opinion of the Supreme Court of the State of Mississippi from considering the question as to whether that act affected inter-state commerce; but Justices Harlan and Bradley did not concur with them in this view of the matter, and Justice Harlan delivered a dissenting opinion, in which Justice Bradley concurred to the effect that in his opinion this act was an attempt to regulate interstate commerce, and was therefore void. It is again a fortunate circumstance that in this instance the views of the minority were not controverted by the majority of the court, and these views, it seems to us, are so conclusive that we shall take the liberty to insert the whole of the dissenting opinion here, and with it conclude our argument on this part of the case.

"The defendant, the Louisville, New Orleans & Texas Railway Company, owns and operates a continuous line of railroad from Memphis to New Orleans. If one of its passenger trains—starting, for instance, from Memphis to go to New Orleans—enters the territory of Mississippi without having cars attached to it for the separate accommodation of the white and black races, the company and the conductor of such train are liable to be fined as prescribed in the statute, the validity of which is here in question. In other words, it is made an offense against the State of Mississippi if a railroad company engaged in inter-state commerce shall presume to send one of its trains into or through that State without such arrangement of its cars as will secure accommodations for both races.

In Hall vs. De Cuir, 95 U. S. 485, 488, this court declared unconstitutional and void as a regulation of inter-state commerce, an act of the Louisiana Legislature, which required those engaged in inter-state commerce to give all persons traveling in that State upon the public conveyances employed in such business equal rights and privileges in all parts of the conveyance, without distinction or discrimination on account of race or color. The court, speaking by Chief Justice Waite, said: "We think it may be safely said that state legislation which seeks to impose a direct burden upon inter-state commerce or to interfere directly with its freedom does encroach

upon the exclusive power of Congress. The statute now under consideration, in our opinion, occupies that position. It does not act upon the business through the local instruments to be employed after coming into the State, but directly upon the business as it comes into the State from without or goes out from within. While it purports only to control the carrier when engaged within the State, it must necessarily influence his conduct to some extent in the management of his business throughout his entire voyage. His disposition of passengers taken up and put down within the State, or taken up within to be carried without cannot but affect in greater or less degree those taken up without and brought within and sometimes those taken up and put down without. A passenger in the cabin set apart for the use of whites without the State must when the boat comes within share the accommodations of that cabin with such colored persons as may come on board afterwards, if the law is enforced. It was to meet just such a case that the commercial claim in the constitution was adopted. The river Mississippi passes through or along the borders of ten different States and its tributaries reach many more. The commerce upon those waters is immense and its regulation clearly a matter of national concern. If each State was at liberty to regulate the conduct of carriers while within its jurisdiction the confusion likely to follow could not but be productive of great inconvenience and unnecessary hardship. Each State could provide for its own passengers and regulate the transportation of its own freight regardless of the interests of others. Nay, more, it could prescribe rules by which the carrier must be governed within the State in respect to passengers and property brought from without. On one side of the river or its tributaries he might be required to observe one set of rules and on the other another. Commerce cannot flourish in the midst of such embarrassments. No carrier of passengers can conduct his business with satisfaction to himself or comfort to those employing him if on one side of a State line his passengers, both white and colored, must be permitted to occupy the same cabin and on the other side be kept separate. Uniformity in the regulations by which he is to be governed from one end to the other of his route is a necessity in his business, and to secure it Congress, which is untrammeled by State

lines, has been vested with the exclusive legislative power of determining what such regulations shall be.

"It seems to me that those observations are entirely pertinent to the case before us. In its application to passengers or vessels engaged in interstate commerce, the Louisiana enactment forbade the separation of the white and black races while such vessels were within the limits of that State. The Mississippi statute, in its application to passengers on railroad trains employed in interstate commerce, requires such separation of races, while those trains are within that State. I am unable to perceive now the former is a regulation of interstate commerce and the other is not. It is difficult to understand how a State enactment requiring the separation of the white and black races on interstate carriers of passengers, is not a regulation of commerce among the States, while a similar enactment forbidding such separation is a regulation of that character.

"Without considering other grounds upon which, in my judgment, the statute in question might properly be held to be repugnant to the constitution of the United States, I dissent from the opinion and judgment in this case upon the ground that the statute of Mississippi is, within the decision in Hall vs. De Cuir, a regulation of commerce among the States, and is, therefore, void.

"I am authorized by Mr. Justice Bradley to say that, in his opinion, the statute of Mississippi is void as a regulation of interstate commerce."

c. THIS ACT CANNOT SHIELD THE DEFENDANT IN THIS CASE AS TO EITHER PARAGRAPH; BECAUSE THE PLAINTIFF AND HIS WIFE ARE CITIZENS OF ANOTHER STATE.

As shown, by Mr. Justice Harlan, in his dissenting opinion, heretofore quoted, the constitution of the United States provides in the first subdivision of section two of article four that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." It requires no argument to show that if a black citizen of Indiana has a right to select and ride in a coach, where colored citizens of Kentucky ride, he cannot be excluded from a coach where white citizens ride, any more than a white citizen of Indiana could be excluded from a coach where colored citizens of the state ride.

The last proposition to which we desire to call the attention of the court to is this:

D. IF THIS ACT DOES, IN TERMS, APPLY TO AND AFFECT INTER-STATE COMMERCE, AND IS, ON THAT ACCOUNT AND TO THAT EXTENT, REPUGNANT TO THE COMMERCE CLAUSE OF THE CONSTITUTION, IT MUST BE RFGARDED AS UNCONSTITUTIONAL AT THE TOTO, OR AT LEAST, IN ALL THAT PART OF IT WHICH REQUIRES THE SEPARATION OF THE WHTIE AND COLORED PASSENGERS.

It may be that those sections of the act which require the carrier within the state to provide separate coaches for white and colored passengers, and require that no difference or discrimination shall be made in the quality, convenience or accommodations in the cars or coaches or partitions set apart for white and colored passengers, and which denounce a punishment against the carrier for a failure to comply with these requirements, that is to say, sections 1, 2, 3 and 4, may be held to be as in the Mississippi case, within the power of the state. These clauses or sections are entirely separate and distinct from the remainder of the act, and if it had stopped at the end of the fourth section, there would be no evidence in the act that the lawmaker had, by mistake or oversight, stopped short of his purpose. It might well be supposed that a Legislature would be willing to provide for the voluntary separation of the races, and would be willing to provide them facilities for doing so.

But the point we make is this. If it were granted that the enforced separation of the races within the state and on the vehicles of purely domestic commerce was not a violation of the rights of the citizen of the United States, as guaranteed by the 14th amendment, if the separation so far as it applies to inter-state commerce and inter-state travelers is contrary to the commerce clause of the constitution, then as the section which covers both intra and inter-state commerce is one and the same, and its parts are not separated so that one part could be stricken out, and leave the sense complete, it is not within the power of this court to restrict its meaning and make it so read as to apply alone to and operate upon one of these parts. If it would be uncertain, from the construction of an act and the language used, whether the Legislature would



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have passed it, as applicable alone to that subject which would have been constitutional, it is not within the province of the court to attempt to separate it and enforce it by piece-meal.

The probabilities are that, in this case, the law would not have been adopted if the 5th section had required the carrier only to separate those white and colored citizens of Kentucky who proposed to get on and off the train inside of Kentucky; or if they had believed that it could not be made to apply to everybody on all trains running in the state. To separate Kentucky white and colored passengers, and permit Ohio and Indiana whites and blacks to mingle freely with each other, and with Kentucky whites and blacks would have been an absurdity, and the Legislature cannot be supposed ever to have intended it.

The Mississippi case was upheld as to the sections of the act requiring the carrier to provide separate coaches upon the distinct ground that those provisions applied only to intrastate commerce and was altogether distinct from those sections which required the separation of the passengers.

We desire to refer the court briefly to some authorities upon this point.

In the case of Baldwin vs. Franks, 120 U. S. 678, the court reviewed the decision of the Supreme Court on this subject, and reconciled what appeared to be conflicting opinions, and as a result announced that in order to give effect to the rule that a statute may be enforced as to that part which is constitutional and only that which is unconstitutional rejected, "the parts—that which is constitutional and that which is unconstitutional—must be capable of separation, so that each may be read by itself. This statute, considered as a statute punishing conspiracies in a state, is not of that character, for in that connection it has no parts within the meaning of the rule. It provides in general terms for the punishment of all who conspire for the purpose of depriving any person, or any class of persons, of the equal protection of the laws, or of the equal privileges or immunities under the laws. A single provision, which makes up the whole section, embraces those who conspire against citizens as well as those who conspire against aliens. Those who conspire to deprive one of his rights under the laws

of a state, and those who conspire to deprive him of his rights under the constitution, laws or treaties of the United States. The limitation, which is sought, must be made, if at all, by construction, not by separation. This, it has often been decided, is not enough."

In the case of the United States vs. Reese, 92 U. S., 214, the court said, in response to an attempt to limit the statute by construction, so as to make it operate only on that which Congress might rightfully prohibit and punish:

"For this purpose we must take these sections of the statute as they are. We are not able to reject a part, which is unconstitutional, and retain the remainder, because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the section, but by inserting those which are not now there. Each of the sections must stand, as a whole, or fall all together. The language is plain. There is no room for construction, unless it be as to the effect of the constitution. The question then to be determined is, whether we can introduce words of limitation into a penal statute so as to make it specific, when, as expressed, it is general only."

To this the court answered in the negative, remarking that "to do so would be to make a new law, not to enforce an old one."

In the Trade Mark cases, 100 U. S. 82, the court said:

"While it may be true that when one part of a statute is valid and constitutional, and another part is unconstitutional and void, the court may enforce the valid part, when they can distinctly separate, so that such can stand alone, it is not within the judicial province to give to the words used by Congress a narrower meaning than they are manifestly intended to bear, in order that crimes may be punished which are not described in language that brings them within the constitutional power of that body." And again, further on, "if we should, in the case before us, undertake to make, by judicial construction, a law which Congress did not make, it is quite probable we should do what, if the matter were now before that body, it would be unwilling to do."

In Louisiana vs. Allen, 100 U. S. 80, the court said:

"The point to be determined in all such cases is whether the unconstitutional provisions are so connected with the general scope of the law as to make it impossible, if they are stricken out, to give effect to what appears to have been the intent of

In the case of the Wabash & St. Louis R'y Co. vs. Illinois, the court held that an act of the Legislature which attempted to fix the rates of traffic between the states was unconstitutional; but intimated that if it could be applied to intra-state or domestic commerce, the clause would not be unconstitutional. This case does not in any way contradict the proposition we have been maintaining, because one question there was whether act did, in terms, or by fair construction, apply to inter-state commerce, and the court accepted the construction of the Supreme Court of the State of Illinois, that it did so apply; but expressed a doubt whether that construction was correct, and stated that if it had been applied only to domestic commerce it would have been within the power of the state Legislature. So if in the case before us, if the 5th section of the act was confined to domestic travel, and did not make any such discriminations as are denounced by the 14th amendment to the constitution, it might well be sustained by the courts; but if as we contend, the general langurge used applies to every passenger, white and black, whether domestic or inter-state, whether a citizen of the state of Kentucky or of some other state or country, then it is not within the power of the courts to make it specific by applying it alone to citizens of Kentucky, traveling wholly within the state.

In conclusion, therefore, we maintain that this act as a regulation of inter-state commerce is repugnant to the national constitution, and cannot be relied on by the defendants as a shield in this case, and in any event, that they must plead to the petition, and show affirmatively that they have complied with the law before they will be permitted to enforce it.

We confess we have extended this paper beyond the ordinary limits of a brief, and have made unusually full quotations from the authorities upon which we have relied. But the peculiar importance of this case is our only excuse. In appearing here, we do not represent only the plaintiff, who feels that his individual rights have been outrageously disregarded; but we also represent directly the entire colored population of Kentucky, and indirectly the whole race in the United States. The three hundred and fifty thousand colored men, women and children of Kentucky, citizens of this great republic, feel that their rights, which the constitution of the country has granted to

them, have been invaded and trampled upon by this separate coach law, and by the defendant in attempting to carry it out; and they realize that they would be unworthy of that citizenship, if they tamely submitted to this covert attempt to deprive them of those rights, and humiliate and degrade them.

They remembered the obstacles which they have encountered in the past in their struggle to resist the many efforts that have been made through race prejudice and political excitement and animosities, to keep them substantially in a state of slavery, and the fact that heretofore all these efforts have failed, encourages them to maintain their faith in the laws of the country and in those who administer them, that soon or late even and exact justice will be done them.

When Elisha was surrounded in Dothan by the hosts of the Syrians, and he and his servant were left alone to protect themselves from this mighty power so far as human agency was concerned, and the servant had despaired of relief, the man of God pointed him to the sky and showed him the innumerable horsemen and chariots of fire which the God of Israel had sent to fight their battles, and the result was that the vast army of the Syrians were stricken with blindness, and Elisha and his servant escaped unharmed.

The colored people believe that the heavens are full of the armies of Jehovah fighting their battles, and while the brilliancy of their armament may serve only to blind their enemies, it will shed a light upon the minds of those who have been selected to construe and administer the laws of this country, which will show them unmistakably the path of duty and justice.

JOHN FELAND & SON,
For Plaintiff.

In the Circuit Court of the United States

FOR THE

6TH CIRCUIT AND DISTRICT OF KENTUCKY.

W. H. ANDERSON
vs.
L. & N. R. R. CO.,
} Response to Brief of Defendant's Attorney.

There seems to be an uncertainty in the minds of the learned counsel as to what position they will take in this case. They both contend that there is an inherent right on the part of defendant at common law to "make all reasonable rules and regulations that are necessary for the conduct of its business," and that the providing of separate coaches for white and colored people is one of those reasonable rules made by defendant independent of the act of the Kentucky legislature, known as the "Separate Coach Bill."

Not certain of that position, they, at the very outset of the brief submitted by Mr. Miller (p. 4, paragraph 2), say: "Immediately after this act was passed the defendant's company provided separate coaches for white and colored passengers on all its trains in this state, and adopted rules and regulations requiring the separation of white and colored passengers according to the provisions of the act."

It may, therefore, be taken for granted that the defendant did adopt said rule requiring the separation of the races in compliance with the act, and not from any presumed right conferred on the defendant at common law or any rule or regulation made thereunder prior to the passage of said act.

Therefore, we should examine briefly the first and main reason given for the adoption of the rule by defendant—i. e., in compliance with the act of the Kentucky legislature..

We respectfully submit that if the justification is under the act, that the same is clearly in violation of the commerce clause of the Federal Constitution.

For this reason, if the state, by legislation, as in the case of Hall vs. DeCuir, could not prohibit separation, on the grounds of color and race, can the state, by legislation, command it? One is equal to the other, and both are infringements of the power that is vested alone in congress.

The defendants claim that there is a striking similarity between the statute of the State of Mississippi and the statute of Kentucky; that they are similar in intent and based upon the same unworthy prejudice, I will admit—no more.

Legally comparing the first section of the two statutes, there is no similarity whatever. The first section of the Mississippi statute reads as follows:

"That all railroads carrying passengers in this state (other than street railroads) shall provide a separate accommodation for the white and colored races by providing two or more passenger cars for each passenger train, or by dividing the passenger cars by a partition so as to secure separate accommodation."

Thus, it will be seen, the Mississippi statute confines itself to "all railroads carrying passengers in the state." In other words, to domestic persons or corporations.

Now, let us look at the Kentucky statute, section 1: "Any railroad company or corporation, person or persons, running or otherwise operating railroad cars or coaches by steam or otherwise, on any railroad line or track within this state, and all railroad companies, person or persons, doing business in this state, whether upon lines of railroad owned in part or whole, or leased by them; and all railroad companies, person or persons operating railroad lines that may hereafter be granted in this state; and all foreign corporations, companies, person or persors, organized under charters granted, or that may hereafter be granted, by any other state, who may be now, or may hereafter be, eithr in part or whole, either in their own name or that of others, are hereby required to furnish separate

coaches or cars for the travel and transportation of the white and colored passengers on their respective lines of railroad."

Thus, it will be seen, that the Kentucky statute reaches out from Maine to California and affects the corporate rights of every person doing business in the State of Kentucky, whether a resident or a non-resident. It not only applies to persons and corporations in this state, but to all other persons and corporations in any other state who may do business in or through the state.

The case of the plaintiff is a civil action to recover damages for a violation of a contract of continuous carriage, made in the City of Evansville, Indiana, with the defendant, by the terms of which said defendant agreed to carry said plaintiff from Evansville, Indiana, to Madisonville, Kentucky.

FIRST—He was a first-class passenger.

Second—There were no restrictions, rules or regulations effecting said contract.

THIRD—The contract was not affected by any regulation made either by statute in Indiana or under the common law.

Will the defendant claim that the statute of Kentucky could change or modify the contract of carriage made in Indiana, by which the plaintiff had the right to use and occupy any part of said train so long as he did so in a decent and proper manner, until he arrived at his point of destination? Such a proposition is untenable on its face.

Will the defendant claim that a pretended rule or regulation, based upon a common law right protecting the public, which rule was unknown to him and never communicated to him and was not in force where the contract was made, could be operative to affect this contract of carriage in the State of Kentucky, and not in Indiana, and yet not be a violation of the contract? Like the first proposition, this is equally untenable.

The plaintiff had a right to a first-class continuous passage between the points called for on his ticket. No legislative act, nor the rule of the defendant, supposing there was one, could affect or deprive him of that right. A first-class ticket requires first-class accommodation. Gray vs. Cincinnati Southern Railroad Co., 11 Federal, Reporter 683.

No stretch of imagination will ever convince the human mind, unless it is blind with prejudice, that the segregated end of a common smoking car is equal in accommodation to the ladies' and gentlemen's coach at the end of the train, and that when one class of our citizens is thus singled out to be penned up in that way, that it is no invasion of their personal rights and privileges granted to them under the laws and the constitution.

The plaintiff is entitled to a continuous transportation without interruption, and as was well said in the case of Wabash, St. Louis, Pacific Railroad Co. vs. State of Illinois, 118 U. S. pp. 557:

"It can not be too strongly insisted upon that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it, that the commerce clause was intended to secure. This clause, giving to Congress the power to regulate commerce among the States and with foreign nations, as this court has said before, was among the most important of the subjects which prompted the formation of the constitution. And it would be a very feeble and almost useless provision, but poorly adapted to secure the entire freedom of commerce among the States which was deemed essential to a more perfect union by the framers of the constitution, if, at every stage of the transportation of goods and chattels through the country the State within whose limits a part of this transportation must be done could impose regulations concerning the price, compensation or taxation or any other restrictive regulation without interfering with and seriously embarrassing this commerce."

It would seem to me that the commerce right of the human being is equal to "goods and chattels" and that if the State cannot interfere with the merchandise going from one point in one State to another point in another State, that the human freeman ought to be put at least on an equality.

As previously suggested, the act of the Mississippi Legislature and the Kentucky act are widely different. The one on adjudication and interpretation by the Supreme Court of the State of Mississippi was confined and limited in its operation solely within the State or to local commerce, and did not, according to the decision of that court, affect or intend to affect inter-state commerce.



PEN DRAWING OF
EDWARD LANE.
Frankfort, Ky.

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When reviewed on appeal by the Supreme Court of the United States, that court, following the well established rule that where a Supreme Court of the United States has decided that an act of the Legislature of that State is constitutional and valid under the constitution of that State and not in contravention of the constitution of the United States and does not involve any federal question arising in contract or a breach thereof, there is no federal question raised and all that remains is to affirm the State Court's decision, and that was the sole question decided in the Mississippi case. Louisville, New Orleans, Texas R. R. vs. State of Mississippi, 133 U. S. 587.

That case could not involve anything more than the local question of the right of a State to regulate its internal commerce when there was no act of the Federal Congress regulating commerce. The U. S. Supreme Court well said in that case: "It will be observed that this is not a civil action brought by an individual to recover damages for being compelled to occupy one particular compartment or prevented from riding on the train; and hence there is no question of personal insult or alleged violation of personal rights."

The plaintiff's action is based on the violation of his personal rights and his right to inter-state travel. It is not material whether it is sought to be justified under the act of the Kentucky Legislature or any rule or regulation the defendant has made—it is equally an infringement of his rights as an inter-state traveler. If the defendant seeks to justify under the rules and regulations of the company adopted for the safety and comfort of its passengers and was reasonable and necessary, then it should have applied to the plaintiff in the State of Indiana and become a part of the contract as made in that State where the defendant and its agents own, control and conduct the operation of the road.

They do not contend that a company engaged in inter-state commerce can make a contract of carriage in one State which will entitle him to first-class accommodation and continuous carriage while within that State and that when he enters a second State they can confine him to a part of the smoking car and when he would arrive in the third State change his quarters again, either for better or worse, and justify under the plea of necessary regulations.

We do not claim that the defendant has not the right to make reasonable regulations governing all passengers. They have under the general police power and that alone, to preserve order, to add to the comfort and security or accommodation of all their passengers, and, if necessary, to assign passengers to their seats or to restrict them to certain seats, but we do contend that they have no power of discrimination based alone on the question of color or race or nationality—more especially is it true in this case, when the contract as entered into and partly executed, did not recognize any such rule of discrimination, and there was no more necessity for its enforcement in Kentucky than where it was made in Indiana.

In the case of the West Chester & Philadelphia R. R. Company vs. Miles, cited by the defendant, with so much emphasis, as establishing the rule that the carrier can make such rules of discrimination arbitrary and without a recognition of the principle upon which such rules and regulations should be based, i. e., the police power, is conclusive against them in every particular.

The opening words of Judge Agnew in delivering that opinion was as follows: "It is admitted no one can be excluded from carriage by a public carrier on account of color, religious belief, political relations or prejudice."

What a commentary on the argument made by my distinguished friend Browder, in regard to the irrepressible conflict and antagonism that exists between the races. In that case the carrier has made a rule that the conductor could assign to any passenger a seat in the car which they had taken. This passenger has taken a seat in the ladies' car. The conductor assigned her to another seat in the same car other than the one she had taken, which we admit that he had a right to do just the same as if she were a white person. This is based on sound public policy and principle and not on the color of the party or on the ground of prejudice.

It is strange that one of the learned counsel for defendant should base his entire defense on this opinion almost verbatim et literatim; the opinion rendered in 1867 just at the close of the great conflict that carried out the Declaration of Independence to a finality, that all men were born free and equal,

and which became a part of the organic law of this nation for the first time.

The ethnological distinction which forms such a large part of the defendant's argument in support of their cause, has passed away, and if not it has no place in the discussion of that case or of this. We certainly can rely on that case in support of both paragraphs of the plaintiff's petition, for if the facts were in that case as they are in this the learned judge with all the influence of a long life in the past when innate prejudice warped the mind and controlled the faculties of the wisest and best of men, he would understand the legal status of this cause and sustain the plaintiff's contention in this action.

Quoting again from the same judge, this exclusion is based alone on color, he says: "No one can be excluded from carriage by a public carrier on account of color." This case was decided more than a year before adoption of the fourteenth amendment of the federal constitution, which granted the rights and privileges of all citizens in the United States without regard to race, religion or color.

In the case of the Chicago & Northwestern R. R. Co. vs. Anna Williams, 55 Illinois, pp. 185, relied on by the defendant, a statement of the facts is sufficient.

This action was brought by a colored woman to recover damages resulting to the plaintiff by reason of being excluded from the privileges of a car of the defendant's road, which had been designated under the rules of the company for the exclusive use of ladies and gentlemen accompanied by ladies (our case), the only reason for such exclusion of the plaintiff being on account of her color. On the trial below she recovered a judgment for $200 which on an appeal was affirmed.

This case absolutey and unequivocally supports in every particular the contention of the plaintiff. So we might go on and investigate almost all the authorities of the defendant, and we will find that they will in the main support the cause of action of the plaintiff.

JOHN P. NEWMAN, for Plaintiff.

In the Circuit Court of the United States

FOR THE

6TH CIRCUIT AND DISTRICT OF KENTUCKY.

W. H. ANDERSON,
vs.
L. & N. R. R. CO.

} Response to Brief of Defendant's Attorney.

The first count of plaintiff's petition alleges in substance that he is a citizen of Indiana, residing at Evansville, in said State; that defendant corporation is a citizen of Kentucky; that he purchased first-class tickets for himself and wife over defendant's road, Oct. 30, 1893, from Evansville, Ind., to the City of Madisonville, in the State of Kentucky; that when he and his wife arrived at the City of Henderson, Ky., they were requested by defendant's agents to ride in a compartment of a certain coach of defendant's train set apart for colored passengers, which they refused to do, whereupon they were ejected from said train by said agents, and were not allowed to travel over defendant's road.

The second count alleges substantially the same facts, except that the tickets were purchased at the City of Henderson Dec. 19, 1893, to the City of Madisonville, all in the State of Kentucy.

The power to regulate all classes of commerce between the several States is vested exclusively in Congress. (Constitution of the United States, Art. 1, Sec. 8, Clause 2.) See opinions Judges Wayne and Grier in the passenger cases, 7 Howard

U. S. Reports, Railroad Co. vs. Iowa, 95 U. S., 155; Hall vs. DeCuir, 95 U. S., 485; Gibbons vs. Ogden, 9 Wheat., 1 95; Mobile & O. R. R. Co. vs. Sessions, 28 Fed. Rep., 592; Railroad Co. vs. Illinois, 118 U. S., 557.

The statute of Kentucky providing for separate coaches for white and colored passengers is contrary to Sec. 1, Fourteenth Amendment to the Constitution of the United States, and is therefore void. Civil Rights Cases—109 U. S., 3, 106 U. S., 629, 116 U. S., 131, ex Parte Virginia, 100 U. S., 339.

Said statute is void because—

First, it is class legislation, in this, that it does not apply alike to all persons and corporations engaged in the business of common carriers.

Second, that it more directly affects the colored than the white citizens of said state in its provisions.

Third, that it prescribes unequal accommodations for colored passengers as compared with those prescribed for white passengers.

Whatever regulation a state makes relating to raidroads must be by virtue of the police power, and this law must stand or fall by that power. Redfield, C. J., says "that this police power of the state extends to the protection of the lives, limbs, welfare, comfort and quiet of all persons, and the protection of all property within the State."

Thorpe vs. R. R. Co., 27 Vt., 140.

Com. vs. Alger, 7 Cush., 53. There is no power in a legislative body to arbitrarily curtail the natural rights of the citizen unless it is done not only for the benefit of others, but for his own good as well. The law in question requires railroad companies to haul a coach set apart entirely for white passengers of both sexes, and half the coach set apart for colored passengers is given to white male passengers as a smoking car, while the other half only is set apart for colored passengers of both sexes. Can it be said that this regulation is reasonable and equally beneficial to all citizens of Kentucky? Can it be said that equal protection, comfort and quiet is extended to all citizens under this law? You can no more take from a citizen or interfere with his peace, comfort and enjoyment than you can take his property without in some adequate manner compensating him. At any

rate such regulations are always subject to judicial review. Leisy vs. Hardin, 135 U. S., 100 (Original Package Case.) It is claimed by defendant that independent of any statute, it has the common law right to make such a rule or regulation as the one in question. Upon this point we cite Railroad Co. vs. Brown, 17 Wallace, 445. In Railroad Co. vs. Williams, 55 Ill., 185, s. c. 8, Am. Rep., 641, the court says: "A railroad company cannot capriciously discriminate between passengers on account of their color, race or social position. Whatever discriminations are made must be on some principle or for some reason that the law recognizes as just and equitable and founded in good public policy. What are reasonable rules is a question of law and is for the court to determine." In the same case it is further held by the court that "an unreasonable rule that affects the convenience and comfort of passengers is unlawful because it is unreasonable."

82 Mich., 358, s. c. 21, Am. St. Rep., 576; Clark vs. Board, etc., 24 Ia., 267; Coger vs. Packet Co., 37 Ia., 146; People vs. Board, etc., 101 Ill., 308, s. c. 40 Am. Rep., 196; Messenger vs. State, 25 Neb., 674; Balies vs. Curry, 128 Ill., 281; Board, etc., vs. Simmon, 26 Kans., 1; Central R. R. Co. vs. Green, 86 Pa. St., 421.

Wherefore we say that the demurrer to plaintiff's petition should be overruled.

J. H. LOTT,
Of Counsel for Plaintiff.

The Position Taken by Defendant.

It is contended by counsel for the defendant in this case—

First—That the railroad company has the "inherent right" as an incident to the express powers given by its charter to make a rule or regulation separating its passengers on account of race, in order to promote their comfort, peace and good order. And that this is a common law right, and not dependent on any statute. That the rule or regulation contended for in this case is a reasonable one.

Second—That by the law of Kentucky, which took effect October 6, 1893, all railroads in that state are compelled to provide separate cars or compartments for colored and white passengers. That said law is a reasonable and valid exercise of the "police power" of the state. That said act does not violate any right of the citizens of that state, or other citizens, who are "intra state" passengers on any railroad in that state. That said act is not violative of the Constitution of the United States.

In substantiation of which they cite the following decisions:

AUTHORITIES CITED.

Separate Coach Bill, Acts of 1891-'2-'3, page 63.

Commonwealth against Power, 41. American Decisions, page 465 and note and authorities cited.

Rerfield on Railways, Ed. 1888, page 101.

Hutchison on Carriers, 2d Ed., Section 542 and notes.

Wood's Railway Law. Section 297 and authorities cited.

Story on Bailments, Section 581.

Angell on Carriers, Section 528.

Thompson's Carriers, 345.

West Chester R. R. Co. vs. Miles, 93 Amer. Decis. 744, 55 Penn.

Chicago &c. R. R. Co. vs. Williams, 55 Ill., page 185.

Chesapeake &c. R. R. Co. vs. Wells, 85 Tenn., 613.

Memphis &c. R. R. Co. vs. Benson, 85 Tenn., 627.

Louisville &c. R'y. Co. vs. The State, 66 Miss., page 662.

Britton vs. A. & C. Airline R'y Co., 88 N. C., page 536.

Houck vs. Railway Co., 38 Fed. Rep., 226.

McGuinn vs. Forbes, 37 Fed. Rep., 639.

The Sue, 22 Fed. Rep., 843.

Murphy vs. Railroad Company, 23 Fed. Rep., 637.

Logwood vs. Railroad Company, 23 Fed. Rep., 318.

Heard vs. Railroad Company, 3 Interstate Commerce Rep., page 111.

Hall vs. DeCuir, 95 United States, 484.

L., N. O. & T. R. R. Co. vs. Mississippi, 133 U. S., 587.

The Civil Rights Cases, 109 U. S., page 3.

Day vs. Owen, 5 Mich., 520.

Claybrook and others vs. City of Owensboro, 16 Fed. Rep., page 297.

95 U. S., 503; Hall vs. DeCuir.

133 U. S., 587; L., N. O. & T. R. R. Co. vs. Mississippi.

38 Fed. Rep., 226; Houk vs. Southern Pacific R. R. Co.

93 Amer. Decisions, 744; West Chester R. R. Co. vs. Miles.

55 Ill., 189; Chicago and Northwestern R. R. Co. vs. Williams.

21 Amer. and Eng. R. R. Cases, 256; Logwood vs. Memphis and Charleston R. R. Co.

21 Amer. and Eng. R. R. Cases, 258; Murphey vs. Western and Atlantic R. R. Co.

17 Am. Rep. 495; Bass vs. Chicago &c. R. R. Co. (Wisconsin.)

70 N. Y., 587; Peck vs. N. Y. &c. R. R. Co.

33 Iowa, 562; Marquette vs. Chicago &c. R. R. Co.

41 Amer. Dec., 465; Commonwealth vs. Power.



HON. JORDAN C. JACKSON,
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CHAPTER V.

BIOGRAPHICAL SKETCHES OF PROMINENT MEN AND WOMEN WHO HAVE BEEN CLOSELY IDENTIFIED WITH THE ANTI-SEPARATE COACH MOVEMENT—REV. S. E. SMITH, D. D. —REV. JAMES M. TURNER—DR. E. E. UNDERWOOD—HON. GEO. W. GENTRY—HON. W. H. STEWARD—HON. J. ALLEN ROSS—HON. JORDAN C. JACKSON—REV. J. H. FRANK, D. D.—HON THOS. S. PETTIT—HON. JOHN FELAND SR —HON. JOHN P. NEWMAN—EDWARD CHENAULT AND OTHERS.

REV. S. E. SMITH, D. D.

Among the most enterprising, progressive and loyal men of the race will be found the subject of our sketch, who first saw the light of day in Barren County, Kentucky, in 1859. When a mere lad, through the death of his father, he was thrown out on the world to eke out a living for himself and widowed mother. Through close application to work and study he, early in life, mastered the common school branches and turned his attention to higher studies. In 1874 he professed a hope in Christ and became a member of the Baptist Church. In 1881 he entered the State University at Louisville, Ky., from which he afterwards graduated with honors. When quite young he became identified with every move effected for the elevation and advancement of his race in the State. He was the founder of the "Young Men's Progressive Band," of Louisville, now known as the Atheneaum. But few colored men of the South have been more active in political matters than has Rev. Smith. In 1884 he was a member of the National Republican Convention of Chicago, which nominated Blaine and Logan. Afterwards, in the same year, he was made Chairman of a mass meeting in that city which organized the Waiters' Union. He was among the first to organize the socities which

now constitute the "Baptist Women's Educational Convention" at that time being closely associated with Dr. W. J. Simmons. In 1886 he was a member of a committee which appeared before the Senate in Frankfort, in behalf of just laws for the colored people of the State, at which he distinguished himself by delivering an able, scholarly and earnest address in the behalf of his race. In 1886 he was ordained to preach the Gospel, and has since made for himself a valuable reputation as a pulpit orator and a successful pastor, and occupies a prominent position among the foremost Baptist clergymen of the country. He is a trustee of the State University and takes an active part in educational matters, as well as everything else that pertains to the elevation and advancement of his people in the State. But few men in the State enjoy the social prominence that Rev. S. E. Smith does. As a political organizer he is known to have but few equals. He enjoys the distinction of having been a delegate to every National Republican Convention for the past twelve years. He is the present pastor of the Fourth Street Baptist Church of Owensboro, Ky., at which place he is erecting a magnificent $20,000 brick church edifice. He has been very active in the fight against the Separate Coach Law. And as a member of the State Executive Committee has had charge of the details in the arrangements and execution of the present case.

Z. W. MITCHELL.

REV. J. M. TURNER.

In 1851 Rev. J. M. Turner, the subject of this sketch, was born in Lexington, Ky., of slave parents and remained there until 1858 or 1859, when he was taken to Arkansas, where he remained until 1865. Here, he spent his early life in pursuits common to the average slave child. On returning to Lexington, he entered the Freedman's Aid School, where he first learned the rudiments of English. On leaving school he entered, as an apprentice, to learn the bricklayer's trade.

In 1874 he joined the A. M. E. Conference and was given his first field of labor by the Rt. Rev. Daniel A. Payne and for twenty years has devoted his life to the upbuilding of the cause of Christ and the advancement of the A. M. E. Church. As a laborer in the vineyard his work speaks for itself. For

sixteen years he has been a member of the General Conference, and as a law-maker has made for himself a valuable reputation. He has also been a member of the financial board of the A. M. E. Church for eight years. The following work stands, for Rev. Turner, a living monument and will speak for him long after he has gone. Possibly no divine has been more active in the state than he, or has accomplished more since entering the ministry. He has been successful in erecting the leading churches in the state. At Versailes he erected an edifice in 1877 at a cost of $6,500; at Danville, 1881, at a cost of $8,000; at Frankfort in 1893 $0,000. He is now presiding elder of the Lexington District of the A. M. E. Church, and is chairman of the State Executive Committee of the anti-separate coach movement. As a worker he has been conscientious and indefatiguable; as an officer, proficient and impartial, and as a citizen he stands high, demanding the respect of all who know him. As a race advocater he has no superiors in the state. He has been closely identified with the elevation and advancement of his race in this state for the past two decades. In 1884 he was elected a member of the General Sunday School Board of the A. M. E. S. S. Union in Baltimore, and was one among those to select and purchase the present property owned in Nashville by the Union. By economy and business management Rev. Turner has been successful in accumulating good property, owning two houses and lots in Danville, Ky. In 1869 he was married to a young lady of Lexington by the name of Miss Nettie Spencer, and is the father of a happy family. In Rev. Turner's life there is inspiration and hope for emulation by the worthy young men of the race who are struggling against odds to enroll their names among our successful men.

EDWARD ELLSWORTH UNDERWOOD, M. D.

As a leader, a race worker and a thinker, the subject of our sketch stands without a superior in the state of Kentucky. He has been a leading figure inthe movement against the "Separate Coach Law" from its earliest incipiency, and as secretary of the Executive Committee, has had more to do than any one man connected with the "movement." The able and proficient way in which he has discharged the important duties imposed upon him by the citizens of Kentucky has satisfied all that no

mistake was made in selecting him as their leader in this great fight for human rights. Edward Ellsworth Underwood was born in Mt. Pleasant, Ohio, in 1864. At an early age he was entered upon a course of study under the instruction of Prof. J. L. Champ and under his proficient tutorage—being himself of a studious temperament—he soon completed the prescribed course and was regularly promoted to the high school (being the first of his race to enter it), from which three years later he graduated with honors, being third in a class noted for the exceptional brilliancy of its members. On leaving school he engaged in teaching, accepting a position in the public school of Emerson, Ohio, where he remained with marked success seven years. It was while thus engaged—a natural sequence to the early influence of devoted Christian parents—that he was licensed to preach in the A. M. E. Church. In this field he made for himself a valuable reputation as a pulpit orator, a forcible and able debater and a deep thinker. With a penchant for politics—of the kind, however, that rises above demagoguery or mere personal aggrandizement—he turned his attention to questions of governmental policy, believing that the best interest of his race could be promoted in that way, and was, in the spring of 1887, elected without opposition a member of the Jefferson County Republican Central Committee, and a year later, over four white competitors, a member of the Mt. Pleasant town council, which positions he filled with entire satisfaction to his constituents.

In the fall of 1888, he resigned his seat in the council to enter upon a course of medicine in the Western Reserve University of Cleveland, Ohio, from which he graduated early in 1891, and removed to Frankfort, Ky., his present home. He has since taken a leading part in every thing pertaining to the best interest of his people of that section and throughout the state. On account of activity in politics and high business standing he has been made a member of the County Republican Committee of Frankfort. As a writer he enjoys a reputable position, his work being composed with that brilliant, vigorous style which places him in the foremost rank. As an orator, he speaks fluently and has won eminence and distinction through his many logical arguments and use of eloquent English. As a doctor he is thorough, proficient and painstaking, having but

few equals among the race. As a citizen he merits the respect and esteem of all who know him. Z. W. MITCHELL.

HON. GEO. W. GENTRY.

George W. Gentry, of Stanford, Ky., is a lawyer at the Stanford bar, where he is held in high esteem. Mr. Gentry when a mere lad enlisted in the Fifth Col. U. S. Cavalry and served till the close of the war, when he entered Beria College, where he secured a classical education. For several years after leaving college he taught school in Central Kentucky, but always took an active interest in politics, and in the promotion and advancement of the colored race, and was president of the Equal Rights Convention held in the city of Louisville in 1879, and also president of the convention for equal taxation and a division of the school fund, and to the last cause he devoted much time and energy, until equal taxation and a division of the school fund was made in 1880. He was made district elector for the Eighth Congressional District of Kentucky and made a spirited and active canvass.He has been a delegate to every State convention held in Kentucky since 1879, and has been a prominent candidate in two State conventions for delegate to the National Republican Convention from the State at large and was defeated each time by a small majority and by being from the central part of the State. He has also been a member of the Republican State Executive Committee, and as such took an active part in the great race of Bradley against Buckner in 1887. He held an important position under Collector Burnam and also under Gen. Landrum when he was collector. In both of these places he acquitted himself with great credit. Mr. Gentry is a splendid organizer and speaker, and is noted for his high character and integrity and has the entire confidence of all who enjoy his acquaintance.

WM. H. STEWARD, A. M.

Was born in the town of Brandenburg, Meade County, Ky., July 26, 1847, but since his childhood days he has been a resident of Louisville, Ky. He attended school taught by Rev. Adams, Wm. H. Gibson and R. T. W. James Having led his classes when in school, he thus early acquired a title which he

has ever since worn with dignity and honor. Few men outside of the ministry or politics can so truthfully lay claim to the title of leader as can Mr. Steward, both in the race and in the denomination. He has filled with credit to himself and satisfaction to his employers the office of teacher, messenger for the L. & N. Railroad, letter carrier and Sunday School District Secretary of the American Baptist Publication Society. The last office he is now filling, traveling thousands of miles each year and scattering innumerable pages of Sunday School literature. He was one of the first teachers in the public schools for colored people in the city of Louisville. For several years he was chairman of the Board of Visitors for the colored schools of the city. He joined the Masonic fraternity in 1881 and has made rapid progress in that order, having been worshipful master of Unity Lodge, No. 12, high priest of Enterprise Chapter No. 4, eminent commander of Cyrene Commandery No. 1, and twice elected worshipful master of the grand lodge of Kentucky. At the present he is filling the position of chairman of the Committee on Foreign Correspondence. Through the work of Mr. Steward as chairman of this committee the Grand Lodge of Kentucky is being brought into prominence. He attends every convention in Kentucky and every national convention of colored men that is called, and has been made secretary of almost every national body of colored men that have convened in recent years. So noticeable has this become that he is known as the secretary of conventions. He is at present secretary of the Anti-Separate Coach Central Committee, secretary of the National Baptist Convention, secretary of the General Association of Baptists in the State of Kentucky, chairman of the Board of Trustees of the State University, editor of the American Baptist, which is the organ of several Baptist conventions and has a very large circulation. He is also superintendent of the Fifth Street Baptist Sunday School, which is the largest in the State. He is also leader of the choir in the Fifth Street Church, a member of the Board of Directors of the Colored Orphans' Home and a member of the Board of Directors of the Young Men's Christian Association. Mr. Steward was one of the prime movers in the organization of the National Baptist Convention and was its first secretary. It is said that it is never too late, or early, or is he ever too tired or too busy to lend a helping hand to any one in distress. The degree

of master of arts was conferred upon Mr. Steward by the Faculty of Shaw University at their commencement at the close of the school year of '91 and '92. It was quite a surprise to him, as he knew nothing of any such intention on their part. He is the owner of a beautiful home in Louisville situated in a very desirable part of the city.

HON. J. ALLEN ROSS.

No more striking example of the possibilities of strength of character, indomitable energy and undaunted courage can be found than in the life of the subject of this sketch. J. Allen Ross was born in the city of Lexington, Ky., September 8, 1847, and is therefore yet a comparatively young man. In his early manhood he removed to Mississippi, entering that State in those stirring days of political excitement when partisan and party feeling ran high and devotion to principle was only maintained at the risk of one's life. He at once forged his way to the front, winning for himself both fame and political honor. Positions of honor and trust fell to him in quick and rapid succession. He was elected police justice of the city of Greenville, and shortly afterwards a member of the Legislature from the county of Washington. In the latter position he distinguished himself by his opposition to a resolution requesting Congress to grant amnesty to ex-rebels. He argued that equal rights to the Negro should go with it, and failing to secure the adoption of this principle he spoke and voted against the resolution, his vote being the only one cast against the measure. He was elected sheriff of Washington County; served as U. S. marshal of the Northern District of Mississippi; was aid-de-camp upon the staff of Brigadier General E. A. Peyton, white, of the State militia, and afterwards filled the same position on the staff of Brigadier General Wm. Gray, colored. He was a delegate from Ohio to the famous National Negro Convention at Louisville in 1883, presided over by Frederick Douglas. In 1873 he left the Republican party because of the position of that party on the force bill, and because he was opposed to a protective tariff. Being an uncompromising believer in the doctrine of free trade, he at once went to the front, and ranks among the greatest Negro Democrats of the county. He was a delegate from Kentucky to the National Negro Demo-

cratic Conference at Indianapolis, Ind., in 1888, and served four years as secretary of the National Negro Democratic Executive Committee. He is at present State organizer for the Democratic party of Kentucky. For seventeen years he was an itinerate minister in the Methodist Church, and became famous as an earnest pulpit orator. The profession being crowded, he left it to enter more largely into politics. He has been prominently identified with the anti-separate coach movement almost from its incipiency, being a member of the local committee at Frankfort which took the initial steps against it. When the delegation of colored men went to the Senate and House, Senator Mulligan, the chairman, invited Mr. Ross to make an address. This address, for excellence of diction, depth of pathos, and matchless eloquence was a masterpiece and held the vast audience spell-bound throughout its entire delivery. Mr. Ross was also a delegate to the Lexington convention, and was elected by that body as one of the members of the State Executive Committee, which position he has creditably filled ever since. No member of the committee has been more tireless in his efforts against the obnoxious law, he having made a canvass of the entire State, using his personal efforts and making public speeches against the law. Mr. Ross takes high rank ranks as an orator, and in this field has won his greatest distinction.

E. E. UNDERWOOD, M. D.

JORDON C. JACKSON.

Jordon C. Jackson, the subject of this sketch, was born in Fayette County, Kentucky, February 25, 1848. He is a remarkable example of what pluck and energy can do for a man without scholastic training. Mr. Jackson has been a prominent figure in the state for twenty years, and has attended every republican convention held in the state within that time. He was alternate delegate to the late Hon. W. C. Goodloe to the National Republican Convention, which met in Cincinnati in 1876, and delegate at large to the Republican National Convention which met in Minneapolis to nominate Benjamin Harrison the second time as president of the United States, an honor which only one other man of the race has had conferred upon him from Kentucky. Mr. Jackson was twice elected lay trustee of Wilberforce University, and is now and has been for the past twelve years a trustee of Berea College, the most unique



ROBERT LANDER, Esq.,
Chairman Lexington Convention,
Hopkinsville, Ky.

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institution on the American continent. He stands ready with might and means to do his part in any and all movements for the advancement of his race. Mr. Jackson has been United States storekeeper and gauger for a number of years, and has always taken rank as a first-class officer.

Mr. Jackson is now a member of the undertaking firm of Porter & Jackson, and has won for the firm and himself a place in the confidence of the people that can be had only by fair business transactions and personal integrity. He was a most valued contributor to the Standard for a year and was known to its many readers as "Observer," a title that befits him well, as all who have read his able articles will readily attest. Owing to his many business cares he has for a time retired from the literary field and in losing him the Standard has lost one of its most highly prized writers. Writing under the non deplume, of Uncle Eph, he also furnished a number of most valuable articles for the American Citizen.

He combines qualities that every man is not possessed of —literary talent and business qualification. Mr. Jackson is one of the most enthusiastic workers against the enactment of the separate-coach law of Kentucky, and was one of the first men appointed to wait on Governor Brown for the purpose of preventing the passage of the now obnoxious law. He is a member of the State Central Committee, and there is no man on the entire committee who is more in the struggle that we are now undergoing. He believes that if sufficient money is collected to test the constitutionality of the law that it will be wiped from the statute book of the Commonwealth. Mr. Jackson was elected temporary chairman of the separate-coach convention held in Lexington, Ky., June 22nd, 1892.

REV. JOHN H. FRANK.

The subject of this sketch, John Henry Frank, was born in Jefferson County, near Louisville, Ky., October 22, 1859.

Imbued with a desire from earliest boyhood to secure an education, he lost no opportunity toward the cultivation of his brain that presented itself and it was with an impatient spirit indeed, that he awaited an opportunity to enter the public schools and secure an education. This opportunity, though long delayed, came at the conclusion of the civil war, when he

entered the public schools of Louisville, Ky. Here Rev. Frank displayed those qualities of perseverance that have marked his career since his advent upon a public life. Ambitious and studious he was not long in forging to the fore and in impressing those with whom he was associated with a very high opinion of their classmate. He was regarded as a sincere, earnest and zealous student who would some time, by reason of the cultivation of those splendid qualities, possessed by him, rank among the foremost workers for good of his race. His career since entering upon life's journey has proven the wisdom of those forecasts. After leaving the school room he labored in various capacities creditably and acceptably to his employers, until, in 1886, he was installed as pastor of the Fifth Street Baptist Church of Louisville, Ky., at a salary of $1,200 per annum. This is one of the leading churches of the Baptist faith in the country, and it is the verdict of his parishoners that Rev. Frank is doing all in his power to keep the church up to the splendid status at which he found it.

Active and progressive, never contented unless in the van, he is always present and a power for good in all associations, state and national, with which his church is connected. As a public-spirited citizen he has won the respect and confidence of all who know him. With the young he is deservedly popular, for the young people find in him a friend, whose advice is freely and anxiously given. Ever ready to lend what assistance he may possess toward the elevation of the young and in so unselfish a manner is it done that he has surrounded himself with a class of young people who can be mentioned as friends with pride by anyone. A conservative leader, deep-thinker and progressive man, is what Dr. Frank is called by those who know him best.

At the organization of the new South Publishing Company of Louisville, Ky., it was necessary to find some one of progressive ideas to place at the head of the company. To prevent failure it was necessary to find some one of splendid executive ability to guide the bark recently launched upon the sea of journalism to a safe harbor. Such a man was found in the person of Rev. John H. Frank. As a defender of his race, Rev. Frank has an enviable record. At the beginning of the agitation which resulted in the separate-coach suit he occupied and

still occupies a prominent part as a member of the state executive committee of the anti-separate-coach movement he has been active and earnest in doing whatever he could

HON. THOMAS S. PETTIT,

Of Owensboro, Ky., was born in Frankfort, Ky., December 21, 1843; learned the art of printing, and before his majority became editor of the "Owensboro Monitor," a Democratic newspaper of large influence. Was assistant clerk of State Legislature, private secretary to Governor of State, reading clerk of National Congress for ten years, delegate to Constitutional Convention of Kentucky in 1891 and a member of the General Assembly which succeeded it. He was grand master of Free Masons in 1879-80, and is a thirty-third degree Mason. He has had large business interests, and is always foremost in the advancement of public improvements, educational and religious development. A strong characteristic of Mr. Pettit is his sound judgment and independence in thought and action. He is a fine parliamentarian, fine judge of human nature, strong and pleasing speaker, and a leader always and everywhere.

JOHN FELAND, SR.

John Feland, the senior counsel in the separate-coach suit, born in Barren County, Kentucky, on the 23d day of December, 1837. In 1848 he came with his parents to Hopkinsville, Christian County, Kentucky, where he was educated and at which place he entered upon the practice of law, remaining until 1861 when, in response to his country's call, he entered the Federal army, having been commissioned first lieutenant and regimental quartermaster of the Third Kentucky Cavalry. He remained in the army until his health failed, when he returned home and resumed the practice of law. He afterward became a member of the Kentucky legislature, serving in that capacity for three consecutive terms. On his return he was honored by his constituents with an election to the state senate.

At the organization of the New South Publishing Com- self that when he again entered the walks of private life, he did it with the praises of all who knew him. No act was placed upon the statute books through any aid of his that was not broad and liberal, as well as progressive and thoroughly in keep-

ing with the needs of the times in which he was an active participant. In 1889 he was appointed collector of internal revenue for the Second District of Kentucky, with headquarters at Owensboro. Here he again proved himself a friend of the race by appointing a number of young men to service under him.

After the expiration of his term of office, he resumed the practice of law at Owensboro, Ky., where he still resides. As senior counsel of the separate-coach suit he has been ever watchful and vigilant in his care of the case. Mr. Feland came to the case with years of experience and with a heart filled with love for an oppressed and down-trodden race. Broad, liberal, learned and experienced in the law, John Feland may be depended upon to do all in his power to further the interests of the important case now in his charge.

E. W. CHENAULT,

Of Lexington, was born June 10, 1884, at Mt. Sterling, Ky.; joined Fifth U. S. C. C. in 1864; mustered out of the service at Helena, Ark., with his regiment; has made his home in Lexington since 1866; married Miss Anna Williams, daughter of Mr. Abraham Williams, June 22, 1871; the father of four children, three of whom are now alive, to wit: Mrs. Laura A. Taylor, St. Louis, Mo.; Adam A. Chenault, of Lexington, and Nanny C. Chenault, at present a student at the Kentucky State University at Louisville. Mr. Chenault is an influential and respected citizen of Lexington, white and colored alike cheerfully paying tribute to his manliness and worth. Mr. Chenault is an influen- member of the A. F. & A. M., a past G. S. W., at present the G. J. W. of the Grand Lodge, and has been for three terms; received the largest vote received by any one for same office in the history of the Grand Lodge; has been past grand lecturer of the Grand Lodge of U. B. F. for Kentucky; also past grand pilot, and is at present a member of the Committee on Widows' and Orphans' Home and a member of the National Grand Lodge, U. B. S., and at present one of the trustees of U. B. S., No. 2, of Lexington, and also their present treasurer. Mr. Chenault is serving his second term as president of the Colored A. and M. Fair Association. This is the largest colored association in the United States, and stands as an eloquent tribute to Negro energy and financial management. Mr. Chenault has also

served as a deputy U. S. marshal for the Southern District of Ohio. He is a member of both the Central and Executive Committees of the anti-separate coach movement. A member of the Republican County Committee of Fayette County; connected with all movements looking to the advancement of the Negro; is treasurer of No. 6, U. B. F., strongest lodge in Kentucky. It was he who first called for a convention of the colored men of the South, being joined by such gallant spirits as George and William Spears and Elijah Hathaway. He has letters from such men as Gen. John A. Logan and James G. Blaine endorsing the movement and regretting their inability to be present. Mr. Chenault has long been an active and conspicuous member of the Republican party. He did more than all others to carry the Seventh District for J. C. Jackson and thus placed Mr. Jackson in a position to be elected a delegate-at-large to the National Republican Convention. He has given freely of his means, time and influence to the advancement of the cause of his party and the honoring of his friends, but has asked nothing for himself, his only wish being that the party he loved, the friends he claimed deserving and the cause to which he devoted his life might be advanced. Party fealty with Mr. Chenault is almost a passion. With no taint of treachery in his nature he is impatient with it or the semblance of it in others. With all this he is generous to those who differ with him and numbers among his closest friends members of opposing parties. Examined from every point of view Mr. Chenault presents a fine specimen of the faithful, frank, devoted partisan, yet the just, generous and considerate opponent. In his social life he shows the nobler and truer qualities of the gentleman. No condition of circumstances could make him less than a gentleman or force from his a word that stung, or an act that harmed. Courageous to recklessness, he is as tender in heart as a woman and as refined. With this broad, liberal, tender, yet intense nature, all mankind finds a place in his heart. Wishing that all shall have their rights and enjoy them under the law, he insists that he and his race shall have no legal enactments put into their pathway toward American citizenship.

DR. J M. PETERS.

On November 8, 1862, was born, at Harrodsburg, Ky., the subject of our sketch, J. M. Peters, M. D.

In 1865 he removed to Louisville, Ky., with his parents, attending the public schools of Kentucky's metropolis from 1868 to 1889, when he graduated with high honors. From Louisville he went to New Haven, Ky., where he taught one session of school during the session of 1881. His desire for a higher education becoming so great that it would not down, he went to Nashville, Tenn., entering Central Tennessee College. Here, despite the disadvantages by which he was surrounded, he succeeded in keeping up with his class and making an excellent record as a hardworking student. Gifted with an excellent voice it was not long before that quality was discovered in him, and he was induced to join the Famous Central Tennessee College of singers, a troup which has made a world-wide reputation, under the leadership of Prof. L. N. D. Pickett.

In 1885 he returned to Kentucky and lectured throughout the state during the fall of '85 and '86, where he gained a reputation as a platform and pulpit orator of no mean ability.

Filled with a desire to be of service to his race he entered the ministry and was ordained a local minister in the M. E. Church at Jericho, Ky., in 1881.

As a local preacher he has done excellent work for God and humanity. He was admitted into the Lexington Conference in 1888 at Cincinnati, filling charges on the Auburn and Franklin Circuit, where he made a reputation as an active worker. From these charges he came to Owensboro, Ky., where, in connection with his church work, he entered upon the practice of medicine and applied himself with such zeal that today he has a splendid practice which is fast becoming one of the best practices enjoyed by any colored doctor in Kentucky. As a delegate from Owensboro in 1891 to go before Governor John Y. Brown on behalf of the Negro citizens of Kentucky, praying his disapproval of the passage of the separate-coach law, Dr. Peters proved himself to be fully up to the standard of the other distinguished men of that committee.

MARTIN E. BOYD.

In Frankfort, Ky., in 1850 was born Martin E. Boyd, the subject of this sketch.

In his boyhood he worked with his father as a gardener until at the age of eighteen. His father died, and he engaged as a laborer in a brickyard, where he remained several years.

When about 23 years of age he entered as an apprentice to the boot and shoe making trade with Oscar Miller, a brother in-law, with whom he remained about three years, afterward opening a shop for himself, employing a first-class workman, he completed his trade under him. Since then he has conducted a profitable business for himself, having spent about twenty years in business, during which time he has been successful in accumulating a good amount of valuable property, which speaks for his competency and reliability. In 1877 he was married to a young lady of Frankfort, Ky., Miss Buena Vista Moten, who died after two short years of wedded bliss. In 1884 he again married, this time to a young lady of Frankfort, Miss Mary Trumble. To this union two children have been born—both girls.

Mr. Boyd has always taken an active part in everything pertaining to the elevation and advancement of his race.

As a citizen he stands high, holding the confidence and esteem of all who know him.

He is one of the stable and substantial citizens of Frankfort, and his influence in the fight against the Separate Coach Law by the committee of which he is an active member has been felt. Mr. Boyd's life has been an open book to the community in which he has always resided. Sincere and earnest, with a nature open and frank, he has the confidence and esteem of all classes of the citizens of his native city.

There is much in him that is worty of emulation, and it is due to the efforts and lives of such race men as Martin E. Boyd that has given the far-famed blue grass region the proud and honored distinction of being the homes of as noble specimens of manhood as find their homes within the confines of the United States.

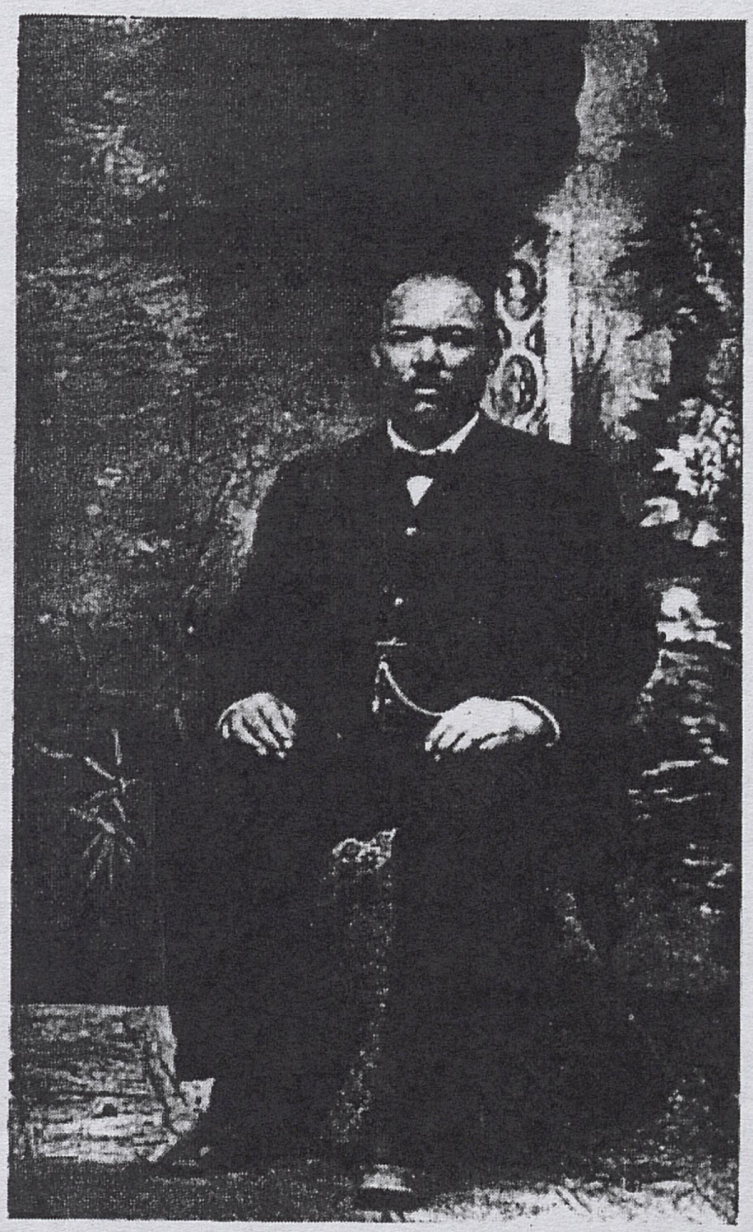
WILLIAM ESTILL McHENRY MAYO

The subject of this sketch, a member of the local committee at Frankfort, Ky., which originated the fight against the separate coach law in Kentucky, was born June 11, 1894, in Owensboro, Ky., and at the age of 1 year was taken by his parents to Ripley, Ohio, and there recieved the rudiments of an English education in the common schools. In the year 1873

his parents took up their residence in Cincinnati, Ohio, and the city public school, under Prof. Peter H. Clark, was attended by him for seven years, and in June 17, 1881, he graduated in a class of eleven with first honors from Gaines' High School. After the completion of his school life he accepted the position of general book-keeper for the Lincoln Club, of Cincinnati, which position he held until January 3, 1882, when he accepted the position he now holds as the first principal of the city colored schools of Frankfort. He undertook his new work with pride and interest in the welfare of his race, and has not only built up a reputation for himself as a scholar, a first-class educator and disciplinarian, but has also trained his pupils and led them from one degree of success to another, until now the Frankfort Colored High and Common School departments are in the foremost rank with the leading and most progressive schools in Kentucky, having obtained an award of merit upon school work from the Department of Liberal Arts at the World's Columbian Fair at Chicago, 1893.. Among some of the prominent positions he has held may be mentioned chairman of the convention of prominent colored citizens headed by the deceased Rev. Wm. J. Simmons, which memorialized the Kentucky Legislature in behalf of a State normal school, and presided over said convention in the hall of the House of Representatives of Kentucky, in 1885; was president of the Kentucky Colored Teachers' Association for two consecutive terms; was grand master of the State Grand Lodge of Odd Fellows of Kentucky for two consecutive terms, and editor of the Union Advocate.

B. T. HARVEY.

Among the members of the local committee who have taken the initial steps against the separate coach bill was Mr. B. T. Harvey, who was born in Franklin County, Ky., near Frankfort, in 1862. His early life was spent in hard labor, as his father was a carpenter and depended much upon the assistance of his son. He acquired most of his education by attending night school. He is widely known as a steady, honest and energetic young man, one having the interest of his race at heart. He has been earnest in his efforts against the separate coach bill, and can be depended upon to do what he can in the future to defeat the iniquitous measure.



MARTIN E. BOYD,
Frankfort, Ky.

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REV. W. H. ANDERSON.

Among the scholarly men of the race is Rev. W. H. Anderson, D. D., pastor of McFarland Chapel, Evansville, Indiana, who was born in Vigo County, Indiana, in 1843, where he spent his early life until 1871.

On arriving at a proper age he attended a district school taught by his sister.

From his entrance in the school young Anderson was looked on as an earnest student.

He was converted when a young man and turned his attention to ministerial work, entering the Missionary Baptist Connection.

In 1861 he enlisted in the U. S. Army with Company C, 13 U. S. Colored troops, and served until the close of the war, receiving his discharge at Nashville, Tenn.

In 1866 he was united in marriage to Miss Sarah J. Steward, of Lost Creek, Indiana, who has proven a valuable helpmeet to him, thoroughly in sympathy with all of his movements.

He has always occupied a very prominent place in the political world, having been honored many times by being selected as a delegate to city, county, state and national conventions of his party, and always regarded by them as a safe counsellor and advisor.

In religious conferences he has always taken high rank, and by force of sheer ability has taken a place among the leaders of the Negro ministry. There is scarcely a convention without his presence, and his voice is always heard in their deliberations.

A committee of colored men was appointed in 1891 to wait upon the president in behalf of the members of his race in the Southern States. Rev. Anderson was one of them, and was also one among the most active of the delegation.

On attending the National Convention of Colored Men at Cincinnati he was appointed one of a committee whose duty it is to memorialize congress in behalf of the condition of affairs in the South.

His prominence was recognized by the Kentuckians in

the present suit and his influence has been of great benefit. His connection with any movement is a valuable endorsement of it, for he is conservative as well as enthusiastic in reforms and the enforcement of laws intended to benefit his race. No minister in Indiana stands higher with all citizens of the state, irrespective of race, color, party or church, than Dr. Anderson.

He enjoys the distinction of being the first colored Indiana minister to have conferred on him a degree from a Kentucky institution. He received the title of D. D. from the State University.

Dr. Anderson is active in every work designed to be beneficial to the race. At present he is at the head of the Ministers' Association (colored) recently organized in Evansville, his home city.

EDWARD LANE.

The subject of our sketch was born in Frankfort, Ky., in 1869, and is the son of Mrs. Alice Lane, one of the first school teachers in the colored schools at Frankfort. He has spent much of his time and money in doing good for his race and country. During his youthful days, having had the care of two orphan sisters and a brother, he was compelled to deny himself of many offered opportunities to secure a good education that he might educate them. Nothing has taken from him an inborn spirit and ambition to ascend the ladder of true greatness. Mr. Lane, by natural tact and acquired ability has made himself known throughout the State as a polished orator, a shrewd politician, etc. In politics he is an acknowledged leader of the colored Republicans in Franklin County, being at the present a member of the county and city committees, the president of the Jno. R. Lynch and Madison Johnson Republican Clubs of Frankfort. The influence of these two organizations has on several occasions been felt in the city affairs. He is held in the highest regard by the business men of this city for his sterling worth and fair dealings with all persons. He has held many positions of honor and trust among his people. He is an Odd Fellow and a member of the State Grand Lodge of Kentucky. When the fight against the separate coach law was begun in Frankfort he was one of the first to step to the

front with his money and voice to contribute all in his power towards its defeat. He served as a delegate to the Anti-Separate Coach Convention held in Lexington, and was afterwards selected to serve upon the State, Central and Executive Committees. He has been for the past five years a ready writer and a rapid thinker, devoting much of his time and journalistic talent in circulating among the prominent journals of the State the facts and injustice of the separate coach law. Mr. Lane has done a great deal in the literary field, having been connected with several prominent journals for years. His influence is felt by those who come within his reach, and one may justly be glad to meet him upon visiting the capital city of Kentucky.

Mr. Lane has been very active as a member of the State Executive Committee in intelligently placing before the thinkers of the country the position of our colored citizens on this unjust and dehumanizing separate coach bill, his manly utterances having been published in many of the leading daily papers of the country. While in Chicago last year he very ably expressed himself to the Chicago Tribune, which has certainly resulted highly beneficial in moulding public sentiment and public opinion in favor of a repeal of this obnoxious law.

HON. ROBERT LANDER.

Among the active workers against the separate coach law of Kentucky has been Mr. Robert Lander, who was honored at the Lexington convention by being elected chairman of possibly the largest and most important body of colored men ever assembling in the State. He was born in Christian County, Ky., in 1858, and until about eleven years of age spent his early life on a farm, at which time he moved to the city of Hopkinsville, entered the common schools, afterwards entered Roger Williams University, of Nashville, Tenn., from which he graduated in 1879. On returning to Hopkinsville he engaged in teaching, which he followed for several years. Afterwards he entered the law office of Hon. John Feland, then of that city, and began the study of law, from which he graduated and was admitted to the bar in 1887, and has since been pursuing his practice in that city. He was married in 1883 to a young lady

of Hopkinsville by the name of Miss Fannie Oldham. Mr. Lander for several years has been very active in politics and stands high as a politician, and at one time was a very active and likely candidate for the position of city court judge of his city. He was also a very prominent candidate for the Liberian mission to succeed Hon. Alexander Clark. As a race worker Mr. Lander has but few superiors in the State. He has taken a deep interest in the fight against the separate coach law and can be depended upon in his district to do much valuable work in the future against the disgraceful measure. As an orator he has made for himself a valuable reputation, and as a citizen he stands high and has the respect of all who know him.

RICHARD VARIAN.

At New Orleans in 1843 was born the subject of our sketch, Richard Varian, who is to-day one of the wealthiest and most influential colored citizens of Western Kentucky. Born of poor but honest parents, the lessons taught him by them did much in forming the habits and shaping the character that has given to him his excellent standing as a citizen in Owensboro, his adopted city. Coming to Owensboro in 1852, ere the shackles had been struck from the limbs of the slave, it was his lot to suffer the bitter experiences of that period. When the emancipation came and the fetters had been removed, Richard Varian began the struggle that has given to him a competency. In 1880 he was appointed United States storekeeper for the district in which Owensboro is situated. This situation he filled with honor to himself and with credit to the powers by whom he was appointed. He served in this capacity seven years. As a politician, Richard Varian is a man whom the republican party loves to honor, as his actions in politics are in keeping with the nature of the man—high-handed and honorable.

The church finds in him an active, earnest worker, whose time and means are freely given. As a citizen he is known and respected by all who know him and is of vast benefit to his race, as his standing in the commercial world enables him to do for them what many, not so amply provided with this world's goods, could not do, even though willing and anxious to be of

service. In this worthy subject there is much for emulation, and Owensboro is to be congratulated for having within her midst such a worthy citizen. In the separate-coach suit he has done excellent work and is active and earnest in the fight that is now being waged.

W. R. HARDING.

Born in Russelville, Ky., December 12, 1860; completed the course of study in the common schools of Owensboro, Ky., graduated from the normal department of Roger Williams University, Nashville, Tenn., in 1881; was a student afterwards in the college department, secretary of the Western Kentucky Anti-Separate Coach Committee at present, and a successful and ardent worker against the separate coach law. As a citizen he stands high and as a race worker has but few superiors.

W. R. Harding stands to-day as one of the most progressive men in Western Kentucky. This section of the state has produced but few men who have outstripped W. R. Harding in the race for honors that properly belong to him who unselfishly devotes his life to the betterment of the condition of his race. Neither is his reputation confined to this particular portion of the state, for, as secretary of the Western Kentucky Anti-Separate-Coach Committee, he has made a record that has won for him commendations from all over the state.

JOHN FELAND, JR.

The junior member of the law firm of The Felands, was born in Hopkinsville, Ky., 1866, attended the common schools of that city, graduating from the high school of Hopkinsville in 1883, and received his legal education in the Vanderbilt University of Nashville, Tenn., in the class of '84-86. Was admitted to the bar of Kentucky shortly thereafter by special act of the Kentucky legislature, removing his disability on account of age. He became the junior member of the law firm of Feland, Stipes & Feland, and continued therein until the spring of 1890, when he became the republican candidate for County Attorney for Christian County. By reason of the enactment of the special registration law for Christian County, especially prepared with a view of depriving the colored people of their suffrage,

Mr. Feland was defeated forty-seven votes in a total of nearly nine thousand. Shorty after his defeat he removed from Hopkinsville and became a special agent for Kentucky in the eleventh census of the United States. After completing this work he entered the revenue service and was stationed in the Fifth District of Kentucky at Louisville, where he remained until the advent of the present administration, when he resigned and re-entered upon the practice of his profession at Owensboro, Ky. Mr. Feland from his youth up has always taken an active interest in politics and his face and voice are familiar to every republican convention in Kentucky. He was elected a delegate from the state at large from Kentucky to the National Convention of the Republican League Clubs, which met in Louisville in the fall of 1893.

REV. BYRON GUNNER.

Born in Marion, Ala., July 4, 1858, he obtained his early training in the A. M. E. School at his home, after which he attended the State Normal; then completed the college, preparatory and theological courses in Talledaga, Ala. He was the valedictorian of Howe Institute at New Iberia, entered the ministry at the age of 12 years, pastored a church in Louisiana five years, taught school in Paris, Texas, three years and is now filling a position of usefulness. Rev. Gunner has been very active against the separate coach law in making speeches throughout the State and raising funds. He is also a noted lecturer, and his lectures entitled the "Devil on Wheels" and "How to Smash the Devil" are both interesting and instructive.

EDWARD LOWRY GILLIAM.

Born in Toronto, Canada, December 1, 1847. Attended the free schools of that city and was the first colored boy to receive a scholarship, as the result of a competitive examination in Canada. Completed the Collegeate Academy of his native city, and was in the third year senior class when he left his home for the Southern States. He located first in Crystal Springs, Miss., and later made his home in Edwards and Jackson, in the same State. He was principal of the public schools in each of those towns. He served as trustee of Rust University

at Hill Springs and of Alcorn University near Rodney, Miss.; deputy chancery clerk in Copiah County; deputy assessor and deputy sheriff in Hines County, Miss. He filled the positions of postal clerk and post-office inspector. He removed to Kentucky in 1886, and is at present engaged in the ministry of the A. M. E. Church. While in Mississippi he edited and published several newspapers. Mr. Gilliman was a delegate to the Anti-Separate Coach Convention in Lexington in 1892. He is at present president of the Louisville Anti-Separate Coach League and an indefatigable worker in its interest.

NED TURNER.

One of the most indefatigable workers against the separate coach law in the State has been Mr. Ned Turner, of Hopkinsville, Ky. He was born in Christian County, Ky., in 1859, received his first training in a subscription school of that city until about the age of 15, at which time he found employment in a grocery store and has since spent his time in the grocery business. He is at present manager of the J. R. Hawkins grocery firm, which position he has held for the past thirteen years. Mr. Turner has distinguished himself as a man possessing unusual business ability. As a race worker he has but few equals in the State in which he lives, and as a citizen he enjoys the confidence and esteem of all who know him. He is the secretary of the U. B. F. Society of Hopkinsville, and was instrumental in having his lodge donate $27.50 to the anti-separate coach fund. He is also chairman of the financial committee of that city, and has been very active in collecting money for the general fund.

DR. HUNTER (JOHN E.)

A cultured and public-spirited gentleman is what Dr. Hunter is conceded to be by all who enjoy an acquaintance with him. As a student in the Western Reserve College of Cleveland, Ohio, he was distinguished for his close application to his studies. On finishing his college course the doctor went immediately to Lexington, Ky., his present home, where he has succeeded in building a large andlucra tive practice. As a business man he displays rare good judgment and ranks among the

best men of affairs in the race. At his home the doctor has become possessed of some very valuable property and has the reputation of being fair and honest in all of his dealings. He has placed himself in the very front rank of colored physicians and his advice and counsel is freely sought by his brother physicians in his home city.

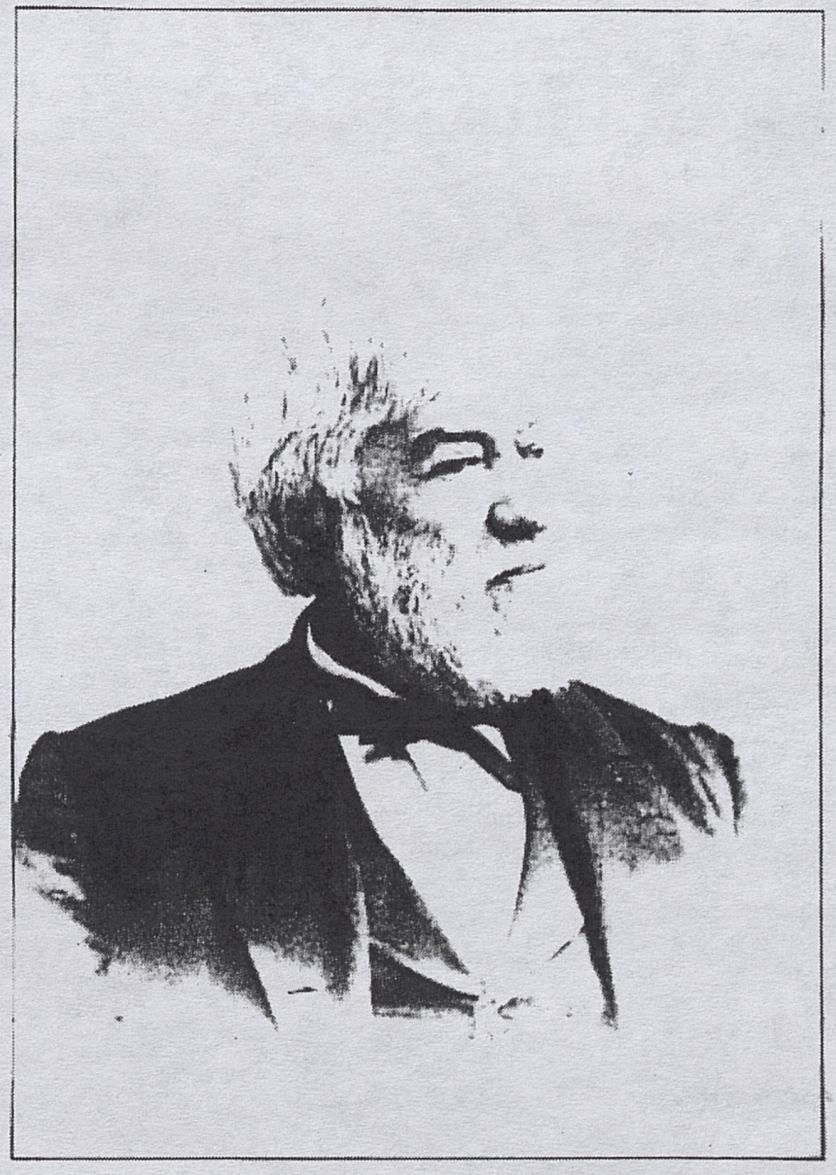
An ardent lover of his race, he can be depended on for assistance to every worthy race enterprise. He has an elegant home, presided over by a wife, who is ever alert to be of assistance to her worthy helpmeet. Here, surrounded by what he holds dear, engaged in his chosen profession, Dr. John E. Hunter, the ardent race advocate and brilliant student, finds inspiration to act as a defender of his race. As a worker in the anti-separate coach movement he used every means at his command for ultimate success and is untiring in the fulfillment of whatever duty falls to his lot. Such lives as his are monuments to the power of untiring devotion to principle and duty.

REV. E. P. MARRS.

Born January, 1840, in Shelby County, Ky,; converted in 1851; taught school at Simpsonville in 1866, Lagrange 1867, New Castle 1870, ordained August 22, 1875; was a student at Roger Williams University, then known as an institute in 1881; has written a history of his life; also devoted much space to the actions of the colored troops in the late war, all of which shows him to be a deep thinker and a profound writer. Is a prominent member of the State Central Committee of the Anti-Separate Coach movement; is pastor of the Beargrass Colored Baptist Church at Crescent Hill, Ky.

That Rev. E. P. Marrs is a deep thinker and a profound writer is evidenced by the character of the book of which he is the author; although it is written as a history of his life, much unwritten and hitherto unknown history of the colored troops is recorded. The depth of thought displayed and the versatality of his writings gained for the book a wide circulation and for the author a place among the writers of his race.

As a member of the State Cenetral Committee of the anti-separate-coach movement, he has proven the wisdom of the powers that conferred the honor and responsibility upon him. En-



HON CASSIUS MARCELLUS CLAY, SR.,
The Negro's Friend,
White Hall, Ky.

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thusiastic and sincere, much has been accomplished by him in this, as well as in the ministerial field, where he has won laurels as the pastor of the Bear Grass Colored Baptist Church at Crescent Hill, Ky.

NOAH W. MAGOWAN.

Noah W. Magowan was born October 26, 1868, in Mt. Sterling, Ky., Montgomery County. He is the son of John W. and Amanda Magowan. His father being a carpenter, the early part of his life was spent in hard labor. He entered school at his home when about 8 years of age. After having finished the common school course he entered school at Berea College, and being quite a genial student advanced rapidly. In 1887 he began teaching. During the past seven years he has been more than successful as a teacher. Not only has he been a successful teacher, but on every occasion, at home and abroad, with word and with pen, he has expressed his love for the race. In 1892, at the convention held in Lexington, Ky., to devise plans to defeat the separate coach bill, he was elected as a member of the State Central Committee. Since then he has been known at home as the modern "Hercules."

JAMES H. GARNETT, A. B. AND B. D.

Born in Gordon County, Georgia, in 1852; a graduate from Oberlin College, Ohio, receiving the degree of A. B.; afterwards completed a three years' course at the Baptist Union Theological Seminary, Morgan Park, Chicago, Ill.; elected to the degree of B. D.; elected president of the Arkansaw Baptist College, Little Rock, Ark.; was president four years of Gaudalope Baptist College of Texas; principal two years of the public schools of Seguin, Texas; is now president of the State University, of Louisville, Ky., successor to the late Dr. Wm. J. Simmons.

Dr. Garnett was called to the presidency of the State University, owing to his fitness for the position, coupled with his Christian integrity. As a student in the Theological Seminary at Morgan Park he won the respect and confidence of his professors and classmates by the earnestness displayed as a student. Honors came to him thick and fast on the completion of

his course. On assuming the presidency of the Arkansas Baptist College, he began his life's work, and so successfully did he conduct the institution that he attracted the attention of other and older institutions, whose trustees spent every effort to secure for their own schools this brilliant young man, whose name had now become known throughout educational circles. From one position to another, through a successful series of promotions, he now occupies the presidency of the State University at Louisville, Ky., where he is proving a worthy successor to the lamented Dr. W. J. Simmons.

JAMES W. WOOLFOLK.

Born in Frankfort, Ky., in 1853; educated from the Hoffman schools; a barber by trade; was assistant librarian at the State University from 1869 to 1872; was W. G. M. of the Grand Lodge of U. B. of F. of Kentucky from 1865 to 1869; among the prime movers against the separate coach movement and was chairman of the first committee taking action toward appealing the measure; was a candidate for city marshal in 1890, and is conceded to have been elected, but was counted out.

It was as one of the prime movers in the separate-coach movement that James W. Woolfolk showed his love for his people and his readiness to sacrifice time, money and business in defense of his people. Those who know him best are loud in their praises of the man knowing full well the material of which he is composed. Extremely popular in his state, he enjoys even more popularity in the immediate vicinity in which he lives. As W. G. M. of the U. B. F's of his native state, he so successfully discharged his duties that he was entrusted with the mastership of this large and influential order for two successive terms and no man in the state stands higher to-day in the councils of the order than James W. Woolfolk, who enjoys a prominence won by hard and continuous exertion.

REV. P. H. KENNEDY.

Elizabethtown, Ky., is the birthplace of the honored subject of this sketch, Rev. P. H. Kennedy. Here he was born in 1848, and remained until he was fifteen years of age. Born

in slavery, his early childhood was spent in pursuits common to children of that period.

He was studious and apt from early childhood, and in 1877 he entered Roger Williams University, where his record shows him to have been a close student bent upon securing an education so as to be of service to his race, for he had already chosen his life's work, having been ordained a minister in 1873.

On finishing school he was appointed general missionary for the State of Kentucky, and has been so successful in this field that each successive year finds the church of his chosen faith growing stronger and stronger in his state.

He is an untiring, zealous worker, whose work is bearing fruit in the establishment of Baptist Churches in Kentucky.

Rev. Kennedy occupies high standing among the people of Kentucky, and a man whose advice and counsel are highly prized. In associations and educational gatherings, and all other conferences in which the advancement of the race is the prime object he may be always found, and his voice is always heard in commendation of the good and condemnation of the bad or unwise legislation of these deliberative bodies. As an ardent race lover he early enlisted on the side of the opposers of the separate coach law, and he has fought and worked against it with an unconquerable will. When a lad of 15 years he enlisted in the 109th U. S. Colored Infantry at Louisville, Ky., and was discharged in 1866 with an honorable record.

JOHN JAMES LILLIE.

Born December 4, 1851; received his early training in the common schools of Cynthia, Ky.; was a student at Berea College in 1873, but on account of ill health had to relinquish his studies; taught school at Crab Orchard, Versailles, Sadieville and Cynthia, Ky.; in 1887 entered into the grocery business in Cynthia and had a lucrative trade until September, 1893, at which time his entire stock was destroyed by fire. He is a member of the Republican Executive Committee of Harrison County, a member of the School Board of Cynthia; also a member of the Anti-Separate Coach State Central Committee from the Ninth Congressional District of Kentucky.

Mr. Lillie has had a large and varied experience and it can be said to his credit that he has discharged every trust imposed

upon him with credit. Whether as a student at Berea, a teacher at Crab Orchard, a grocer at Cynthiana or a member of the Republican Executive Committee, he has been faithful in them all.

No man in his section of the state is held in higher esteem by the republican party, who recognize in John James Lillie a man of true worth and character. In his capacity as a member of the Anti-Separate-Coach State Central Committee, he has labored with a zeal born of love of his race. Would that we had more Lillies in our midst.

REV. CHARLES HENRY PARRISH, A. M.

The subject of this sketch was born in Lexington, Fayette County, Kentucky, April 18,1859. He was sent to school by his parents soon after emancipation. At the age of twelve he joined the Baptist Church and was soon after elected church clerk on account of especial fitness. From that day to this he has been an active church worker. Given but few chances in his boyhood for improvement, his success has been marvelous, for success comes to one surrounded as he was in youth after a determination, resolute and lasting has been made to succeed.

In 1880 he entered the State University, graduating in May, 1886, at the head of his class with the title of A. B. The faculty was not slow in appreciating his splendid abilities, for he was immediately secured to teach Greek in the institution, which position he filled successfully for four years.

Before the committee on legislation at Frankfort he delivered the leading address on behalf of the Colored Normal School.

As a republican he takes first rank in his party, having been honored by being selected as a delegate to republican conventions for the past nine years. At present he is a member of the executive committee of Jefferson County.

As an orator he is widely and favorably known, having delivered an address at the World's Fair by especial invitation.

The Baptist denomination, of which he is a member, recognizes the sterling worth, manly integrity and ability of the man and honor him frequently by conferring upon him positions of honor and trust. He is at present vice president of the American National Baptist Convention and also of the American Educational Convention. In the educational field he ranks high,

occupying, as he does, the presidency of the Eckstein-Norton University, one of the most progressive institutions of learning in the west. As an educator and Christian minister he has but few equals. In his efforts to have the separate-coach law defeated, he has been untiring. He is now pastor of Calvary Baptist Church in Louisville, one of the leading Baptist Churches in the state. Kentucky is proud of such a man, and it is fortunate that she can claim as a citizen a man of such highly prized and varied talents.

REV. R. H. C. MITCHELL.

The subject of this sketch was born in Mitchellsburg, Boyle County, Kentucky, in 1853, and received his education in the schools of his native state.

In 1876 he entered the ministry at Standfort, Ky., and has been eminently successful.

His work in the interest of his race has often taken him beyond the confines of his church. Ever ready to resent an affront to the race, he soon took leading rank as one of the races's ablest defenders and was not long in impressing upon those with whom he was associated the belief that he was a man, open and fearless, whose love for race was second only to his love for God.

Recognizing the need of an educated Christian ministry he entered the State Normal School at Frankfort, Ky., while in charge of the Independent Baptist Church, graduating therefrom with honors in 1890. He came directly to Henderson, Ky., as pastor of the First Baptist Church in that city. This is one of the oldest and most progressive church congregations in Western Kentucky, and in Dr. Mitchell the church and its friends found the very man for whom they had been seeking. The congregation love him for his interest in them; ever watchful of the young, constantly warning them of snares and pitfalls in their pathway, he has, by his fatherly care, endeared them to him in a bond of union of the strongest kind. The education of the young people needed some attention from the ministry was his thought and to think with him is to act. With an almost incredible short space of time he founded and placed upon a successful basis the Baptist Normal Institute. As president of the institution he in two years increased its mem-

bership from sixteen to two hundred and eighteen—a remarkable showing considering the obstacles placed in the way; yet he surmounted all these and to-day the Baptist Normal Institute stands as a monument to the indomitable energy and will power of the citizens of Henderson in general and Rev. R. H. C. Mitchell, the active, energetic pastor of the First Baptist Church of Henderson in particular

JAMES H. LOTT.

In Charleston, South Carolina, on May 17, 1858, James H. Lott, the subject of our sketch, first saw the light of day. From Charleston he removed to Douglas County, Illinois, September 15, 1865. Here he resided until the fall of 1874, when he removed to Terre Haute, Indiana, where he remained until 1878.

While in Terre Haute he read law in the office of Davis & Davis, proving himself an apt and earnest student and winning from his instructors praise and commendations for his zeal and perseverance in the prosecution of his legal studies. In 1881 he removed to Ford County, Illinois, where he entered the office of Judge Alfred Sample, remaining with him two years and completing his student course in the law. The Supreme Court of Illinois admitted him to the bar in 1883.

Mr. Lott came to the bar amply fitted for the prosecution of his chosen profession. A deep thinker, a logical reasoner, splendidly equipped with forensic ability, he was soon able to take high rank among the leading members of the Ford County bar. Neither were his abilities overlooked by the people among whom he had settled. His clientage comprised some of the wealthiest and most highly respected white citizens of that county, and it was fortunate indeed for him that he had applied himself so closely to his studies, for here he had to enter into a sharp competition with his brother lawyers for a share of the patronage of their own race, since but few, indeed, were the colored citizens of Ford County.

In 1887 the republican house of representatives recognized the worth of this brilliant disciple of the law by electing him engrossing clerk of their body. After the session of the house had closed he returned to Ford County and was again honored in his home city by being elected city attorney, a trust filled by

him to the entire satisfaction of his constituency. In 1888 he attended the National Republican Convention at Chicago as alternate delegate at large an honor seldom conferred on one of his race. The Wabash Railroad Company selected him as their attorney for Ford County in 1887, which position he held until 1890, when he resigned his position to remove to Evansville, Ind., to engage in the practice of law.

In Evansville Mr. Lott has a lucrative and growing practice and occupies a position at the bar in this, his adopted city, that would be flattering indeed to one much older in the practice of law than himself. As one of the attorneys in the anti-separate-coach movement, Mr. Lott has been active and energetic, and by his gentlemanly and dignified bearing has won the respect and confidence of all with whom he has come in contact.

MISS MARY ELIZABETH GREEN.

Born in Danville, Boyle County, in 1857; received her early education there; began teaching at Lancaster in 1875, this being the first school for colored children after the adoption of the public school system. After having taught in Danville, Lancaster, Parksville, Lincoln, Boyle, Jessamine and Garrard, she entered and graduated from the State Normal University with high honors and is at present engaged in teaching. She was one of the committee of ladies who addressed the Railroad Committee against the separate coach bill. Miss Green is noted for her literary powers, which were a marked feature in her early childhood.

PROF. D. H. FOSTEN.

Born in Davis County, Ky., 1864; attended the common schools of that city; entered the State University, Louisville, Ky., in 1884; graduated from the normal department in 1888; afterwards graduated from the classical department in 1892; after which he was employed by the faculty to travel in the interest of the school; in 1893 accepted a position in the Normal Institute of Henderson as principal; ordained for the ministry February, 1894, at Owensboro.

As an ordained minister, D. H. Fosten may be considered now as having entered upon his life's work. Gentlemanly and

polished by reason of inherited traits and scholastic training, Rev. Fosten is a valued addition to the rangs of the Negro ministry.

The Normal Institute at Henderson is young, but is determined to have as instructors the best that can be secured, with such an idea in mind Prof. Fosten, then a recent graduate from the Normal department of the State University at Louisville, Ky., was chosen as principal Much of the success that came to the school in '93 was due to his efforts.

With the proud record already made by him, it is safe to say that ere old age shall have laid its blighting hand upon his energies, he will have so filled his life with honored achievements that it will be pleasureable for his friends to recount them.

PERRY D. ROBINSON.

Born in Philadelphia, Pa., February 4, 1861; a graduate of the High School of that city in 1880; accepted a position as teacher the same year in New Jersey; afterwards held positions as assistant principal; then principal of a school in Baltimore, Md.; entered the medical department of Howard University, Washington, D. C., in 1885; graduated in 1889. Began the practice of medicine in Lexington soon afterwards; has since built up a large and lucrative practice; stands high as a physician and is esteemed by all as a citizen. But few men possess more genuine race love than does Dr. P. D. Robinson.

As a student in the High School of Philadelphia, Perry D. Robinson was known as a sincere and studious young man.

From the school room, as a pupil, he re-entered on his graduation as a tutor, and by his own example inspired in those under his control a love of learning and noble manhood that has stood them well in their contact with the world.

Entering the medical department of Howard University in 1885, he applied himself so zealously to the study of his chosen profession, that he graduated in 1889 and immediately began the practice of medicine in Lexington and drew to him self a large and lucrative practice. As a physician he stands high wherever known; as a loyal Negro, who unselfishly labors to benefit his race, Dr. Robinson has no superior. It is indeed



PROF. C. H. PARRISH, A. M.,
Chairman Committee on Resolutions,
Cane Springs, Ky.

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gratifying to all lovers of the race to know that we have among us a man of such sterling qualities.

MRS. L. B. SNEED, A. B., A. M

Born near New Orleans, La., May 15, 1867; reared in Louisville, Ky.; united with the Fifth Street Baptist Church at the age of 12 years; graduated with first honors from the college department of the State University, May, 1887; since that time she has been employed as a teacher in the Normal Department of that university. As the general missionary of the Baptist Women's Educational Convention of the state, her voice has been heard in every town and hamlet. She has traveled extensively in the interest of education and has won for herself the respect and confidence of all with whim she has come in contact.

In Mrs. Sneed the women of the race find a representative in whom they take a just pride. Every ready to raise her voice in their defense, she has earned the reputation of being a vigilant and earnest worker for the elevation of her people. Richly endowed with those qualities that inspire respect and admiration, she was not long in finding a place among the leading women of the race. Fully appreciating the vices and temptations that ensnare and ruin, it has been hers to warn and advise. As a student in the college department of the State University, she applied herself closely to her studies and won the respect and admiration of her fellow students and professors. As general missionary of the Baptist Women's Educational Convention, Mrs. Sneed entered a field for which her splendid qualities fitted her. Traveling throughout the state in her chosen work she has done much to stir the fire of duty and ambition within the breasts of the women of her own race, and it must be gratifying indeed to see such immediate results of her labors as she has seen; for from every hamlet and city to which she has gone have come to the university women, anxious to secure an education and to enroll themselves among the workers of the race for the elevation of our moral and educational status.

Endowed with a sympathetic nature, fully appreciating the conditions by which the women of her race are surrounded

and working with a zeal born of the devotion to her work, Mrs. Sneed has accomplished a work seldom equalled by anyone in so short a space of time.

J. H. JACKSON.

Born at Lexington, Ky., October 31, 1850; graduated at Berea College, Ky., June, 1874; first colored man to graduate in Kentucky; was elected as delegate-at-large to the Republican National Convention of 1880, being the first colored man so elected from Kentucky; was one of the "306" who cast 36 votes for U. S. Grant at Chicago; moved to Kansas in 1881; became principal of Lincoln High School, Kansas City, Mo.; also clerk of the Jury Commission, and also clerk of the Police Board of Kansas City, Kan., receiving both appointments from the Governor; was a member of the Board of Examiners for Kansas City, Kan., being the first colored man in Kansas to be so honored; was prominently mentioned for Auditor of State to succeed Hon. E. P. McCabe; returned to Kentucky in 1887 and took charge as president of the State Normal School for Colored Persons at Frankfort, which position he still holds; was the first man to raise his voice against the separate coach bill at a public gathering at the Corinthian Baptist Church in the city of Frankfort; was the master of ceremonies who introduced the speakers to the Governor; was the first one to speak before the Railroad Committee, urging the passage of a law based upon condition rather than upon color; has devoted his life to education, and enjoys the confidence of both races and both parties in Kentucky.

NATHANIEL R. HARPER.

Was born in the city of Indianapolis, Ind., February 17, 1846, reared in the city of Detroit, Mich., and educated in the public school of that city as afforded from 1852 to 1866. Began the study of law in the office of Hon. P. H. Penniman, of Detroit, but came to Louisville in 1870 and concluded law studies under the tuition of Hon. James Speed Lincoln, Attorney General and Gen. C. Humphrey Marshall. Being admitted to practice law in the State of Kentucky on the 21st day of November, 1871, and was the first colored man to appear be-

fore the courts of Kentucky as an attorney-at-law. Has the respect and well wishes of both the bench and bar and has been the only colored man in the State to sit as special judge of any court in Kentucky. Has handled important cases, both civil and criminal, and won the fight for mixed juries before the Jefferson Circuit Court in the case of the Commonwealth vs. Paul King, in 1886. Is the attorney of several companies and corporations among the colored people, the most important being the Industrial Home and Law Association. Although connected with a number of important criminal cases before the courts, notably as a senior counsel for Patterson for the killing of Jennie Bowman in 1887, yet it is in the civil practice of the law where his best efforts have been put forth.

R. H. HIGDON.

Among the most progressive and enterprising citizens of Frankfort, Ky., will be found the subject of this sketch. He was an active member of the local committee in Frankfort, and has won much in assisting to defeat the separate coach law. Mr. Higdon was born near Owensboro, Ky., in 1837. Since becoming a man he has distinguished himself for pluck, energy and manly courage. In 1880 he was a prominent candidate for city councilman of Frankfort, and by withdrawing from the race was successful in getting $5,000 appropriated to build the present colored school of that city. For many years he was a leading figure in State Industrial Fairs and a large owner of fine blooded horses. In 1869 he distinguished himself as a man of undaunted courage by facing the hot-headed rebels in demanding fair and just treatment for his people. This he did by bringing suits in the Federal Courts of Louisville against the offenders. By business ability he has accumulated good property, and stands high in his community as a citizen.

MISS MARY E. BRITTON.

Born at Lexington, Ky.; received her early education in the first school of the city to which colored youths were admitted, which was organized soon after the emancipation of slavery by the American Missionary Association. In 1869 she left Lexington for Berea College and pursued her studies until 1874. Miss Britton is distinguished for her conscientious convictions of right and wrong. Her courage is equal to any call

or emergency, and with this knowledge of her character it is not difficult to understand how she could take such an invincible position against the separate coach law. Returning to Lexington in 1874, she accepted a position as teacher in the public schools, which position she is now holding creditably.

PROF. W.D. JOHNSON.

A bold and fearless man who loves his race dearly is a splendid description of W. D. Johnson, the editor of The Standard. Upright and honest, he commands respect, and his words of advice or warning are attentively listened to

The coulmns of The Standard are always open to use by race lovers and advocates and Editor Johnson writes with a fearless pen when scouring persecutors of the race. He advocates a purer, nobler standard for the negro, and demands fair treatment also for his people.

He is a bitter enemy to class legislation and prejudice-inspired laws. The journalistic world has a valuable acquisition in the The Standard and its editor, W. D. Johnson, and he is building for himself a record among liberty-loving citizens that will redown to his credit long after the race hating measures of the present shall have been wiped from the statute book and forgotten.

HON. CASSIUS M. CLAY.

Cassius M. Clay, the honored subject of this sketch, was born in Kentucky, 1810.

From boyhood he was noted as an active, energetic and ambitious youth, richly endowed with executive ability. He was recognized even then as a leader. From the common schools of his State he went to Yale College,from which institute he graduated in 1832. Returning to Kentucky, he was honored by his friends and neighbors with an election to the legislature of his State, which position he filled to the satisfaction of his constituents. Vigorously opposed to slavery, he was not satisfied until he started the True American, a strong anti-slavery paper. Much of the sympathy of the anti-slavery movement owes its origin to the influence of this paper, and it is a large debt of gratitude indeed that the colored people believe they owe this fair-minded, honorable gentleman for his early efforts in their behalf then and for earnest expressions of sympathy for them in their present suit.

Owing to his position on the slavery question he opposed the annexation of Texas in 1844.

When the Mexican war began he volunteered in the defense of his country, and served with honor and distinction.

He is now an honored citizen of his native State, a firm believer in justice and right, and an ardent sympathizer with the oppressed.

MARY V. COOK, A. B., A. M.,

Is a native of Kentucky, having been educated in the State University, Louisville, Ky. After here faithfully pursuing studies and doing her duty as pupil, she was given a position as teacher. She was a conscientious, successful teacher and seemed to exert a magic power over her pupils; she has the happy faculty which most teachers lack, that of always being pleasant, yet at the same time commanding and ruling without trouble. She is especially fond of Latin, biography and the sciences.

She loves the race dearly and is interested in everything that tends to its elevation. She has often been called upon to address public bodies, which she did with much credit. She has also been correspondent for several papers. In 1889 she visited the New England States as a representative of our women South and the State University, by invitation of the Board of the American Babtist Woman's Home Mission Society, Boston. By request of the same Board she represented their work at the Baptist Anniversaries (white), which met in Chicago, 1890. The best accommodations of that city were hers at their expense. She is now Lady Principal in Eckstein Norton University, Cane Springs, Ky. As general solicitor for the school, she has been able to visit many Southern States and has learned a great deal about her race by observation and personal contact. She visited their schools, their churches, places of business and houses, and thinks the South is the place for us—that with all the disadvantages and prejudices we are fast accumulating property and elbowing our way to the iron. She, with three other ladies, was called to Frankfort, the Capital, April 15, 1892. to address the Railroad Committee, protesting against the enactment of the Separate Coach Law. Having gone from Kentucky to New Orleans in such a coach she well knew that it meant humiliation, insult from train men and contact with the worst element of both races, was able to speak from experience. She spoke of the morality of our people, how they are exposed to every temptation, how the deeds of every miscreant are published and the doer held up as an example of the race. How the whites use public means to throw strong arms of protection around their women and children in rearing houses of

refuge, homes of the innocent and of fallen women. She said: "You say we steal. I will answer that in the words of Francis D. Long, who said: 'The "nigger" steals a hen, the white man steals a goose; the "nigger" steals a ham, the white man steals a hog; the "nigger" steals a dollar, the white man steals a bank; the "nigger" steals a railroad tie, the white man steals the railroad; the "nigger" steals a constable's office, the white man steals the President's office of the United States.'"

She spoke of the backward step of such a law and showed how had it came with emancipation, it would not have seemed so outragious, but coming now in this enlightened progressive age, to us who have had educational advantages and who are making our way to the topmost round, was an evidence of prejudice to our elevation and showed, decidedly, a spirit to keep us down. She described her trip in the separate car and asked how many of those gentlemen would suffer their wives and daughters to submit to such, etc.

Miss Cook has done and is still doing all she can for the race. Being widely known, she has a great field in which to work.

PROF. C. C. MONROE.

The son of slave parents, Thomas and Maria Monroe, Chapman C., the subject of this notice, was born Oct. 16, 1859, near Georgetown, Scott County, Ky. The days of his early life were uneventful, being characterized by nothing out of common with the lives of thousands of boys similarly situated.

After emancipation, and when opportunity afforded his parents sent him to the village school at Great Crossing, near his home, where he was taught the fundamental principles of the three R's. Here, notwithstanding the meager facilities for learning, the boy gave promise of the man by the unusual aptness displayed by one of his years.

In order to give their children a better education than that afforded by the district schools at that time, his parents, in 1870, removed to Lexington, Ky., where the subject of this sketch entered upon a course of study in the old Corral School, then, as now, under the auspices of the American Missionary Society. In this school he made rapid progress and is remembered by teacher and pupils ans one of the brightest pupils of

the school. In 1874 he finished the course with the honors of his class, with special reference being made to his proficiency in mathematics.

It now became necessary for him to abandon, for awhile, at least, all thoughts of continuing longer in school. He knew that many sacrifices had been made for his benefit, and felt that something was owing from him in return for them. He therefore quit school and entered service in the family of the late Dr. L. P. Tarleton, where he continued for three years. During this time, however, he did not give up his studies, but with the kindly aid of members of the family, he being naturally of a studious disposition, made considerable advancement in the higher departments of mathematics and literature. In 1879 he entered the profession in which he has since distinguished himself, teaching successfully for two consecutive terms a district school in Fayette County. From here he was called to the principalship of the Church Street Public School, Lexington, Ky., Mr., Geo. H. Baily, resigned. Under the superintendencies of the late Judge Jas. O. Harrison and Col. Jno. O. Hodges, he taught in this school for six years with signal success. In 1887, when the State Normal School at Frankfort was established, he was given the choice of either the principalship or a professorship, but for reasons entirely satisfactory to himself he chose to accept the latter, dictating, by request, the man for the former position.

Went as delegate to the National Baptist convention at St. Louis; was Chairman of both of the conventions that met at Frankfort. President State Teachers' Association for two consecutive terms. Received the degree of A. M. from State University. Was removed from the Normal School on account of his fight against the separate coach law. Edited the "Standard." Organized the Polytechnic Institute. Was the first to move against the Jim Crow coaches.

THE TOPIC OF THE DAY.

By Miss Annette Overton.

What is it now that graces the land?
Silver, Cleveland, or the voting man?
Mobs in the South? the winter to come?
Or the work of whisky and degrading rum?

Ask the white man, his opinion to give,
Ask the Indian, that away from us live.
Ask the Negro, if he can tell.
Ask him if he knows of this demon from hell.

Can you not guess it my friends of to-day?
It goes through your town in full array
With a wooden partition as in slavetime of old,
In which we once entered to go to be sold.

Conductors and drunkards are allowed to ride there.
The windows left open, in rushes the air.
With coal-dust and sinders to dirty your clothes,
But where they put us, we must not oppose.

Did you buy your ticket and pay your full fare?
Are you getting justice when you ride there?
Must we be like mummies and stand at our post,
And stare at the white man as though at a ghost?

With Monroe to encourage us;
Underwood to collect,
We mean to demand justice and equal respect;
Gunner to lecture and help us to sing,
His loud hallelujah while the money we bring.

Our way may seem dark and some may scorn,
But the darkest of midnight is just before dawn.

Spring Station, Ky.



LONESOME; RIDING IN A "JIM CROW CAR."

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CHAPTER VI.

LEGISLATION BASED ON COLOR—EVIL EFFECT OF THE SEPARATE COACH LAW—ITS RETARDING EFFECT ON RACE INSTITUTIONS—RAILROADS LOSING AS A CONSEQUENCE—THE POSITION OF THE RAILROADS AS REGARDS THE LAW—OPINION OF EMINENT COUNSEL—LETTER FROM HON. CASSIUS M. CLAY—POETICAL SELECTIONS BY RACE POETS.

Legislation Based Upon Race Distinction.

In discussing this question it is proposed to cover the entire field, but in a very general way. Class legislation in one form or another has been practiced ever since government was instituted among men. Certain classes have been denied the elective franchise, while certain other classes have been prevented from intermarrying with certain other classes. But as a rule such legislation was based, not upon race or color, but upon the social and financial condition of the respective classes—such as that of the plebeians and patricians in ancient Rome. In Rome a plebeian could, by some noble deed, some special act of bravery in battle, distinction in literature, art or science, raise himself to an equality with the noble patrician. The condition of the peasantry in most of the European states at the present time is in many respects similar to that of the plebeians of ancient Rome. Yet instances are common where peasants, by noble deeds, brave acts, intellectual accomplishments, etc., have become knights, earls, dukes, and even princes. Had Frederick Douglass lived in England or France he would have been, by virtue of his great ability, a peer or a count. But if color or race constituted the dividing line on that side of the Atlantic, then Alexander Dumas, the eminent

novelist, and Ira Aldrich, the great tragedian, would have been unknown, for both were of African descent. It is only in the United States of America where legislation based solely on race or color is enacted.

Although slavery in a certain form once existed in the British possessions in the West India Islands (though much different and more humane in its operation than in this country), yet since the emancipation of the slaves they have enjoyed every civil and political right that the whites there have; many of them are among the wealthiest of the citizens and many have held and are now holding high positions under the mother government. The chief justice of Barbardoes is a colored man and an ex-slave. No race legislation has ever been suggested there. And the same is true of Canada, which has an estimated colored population of a quarter of a million. The doctrine of race legislation is peculiar to America, and grew out of the institution of slavery.

Slaves had no civil or political rights prior to the adoption of the Fourteenth and Fifteenth Amendments to the Constitution. And in all the states where slavery did not exist the colored residents thereof were mere "tenants at sufferance." They could not bring suit against a white man unless they could prove their case by white witnesses. They were denied school privileges, although they were taxed for the support thereof. In many of the Northern States they had to give bond for their good behavior and against becoming a public charge. It is unnecessary to enumerate all the iniquitous burdens that were imposed upon them by the laws of the Federal and state authorities, but suffice it to say that no class of people was ever legislated against as they were. But when the people adopted the amendments aforesaid it was thought by every friend of universal liberty that every vestige of slavery and serfdom had been entirely wiped out of not only the laws of the Federal government, but all of the states as well. Notwithstanding those amendments, certain Northern States were loth to cut loose from their ancient prejudices, and for several years the colored people in those states did not fully enjoy their civil rights. And in the State of Indiana to-day (be is said to her shame) it is a penitentiary offense for colored and white

people to intermarry. And, strange to say, the Supreme Court of that state, in the case of State vs. Gibson, 36 Ind., 389, decided that the law was not repugnant to the Federal Constitution. The court held in that case "that the regulation of the marriage contract is under the control of the state governments and that the statute was not abrogated by the Fourteenth Amendment to the Federal Constitution." So far as the writer is aware, this is the only court which has so held in the Northern States. It is conceded that so far as prescribing the age at which persons may marry, the manner of preserving a record thereof and the persons who may perform the ceremoney is concerned, the states have plenary authority. But a state cannot under the guise of a regulation infringe upon any substantial right of a citizen of the United States. Under the supreme law of the land colored citizens have the same right to enter into all civil contracts as fully as white citizens. Marriage is but a civil contract, as all courts and elementary writers have held. A suit for a breach of a marriage contract is tried by the same rules of evidence as any other civil suit. If, by the fundamental law of the land, colored citizens have all the rights that other citizens have, may enter into contracts, may sue and be sued, it would seem idle to say that a law which is confessedly based solely on race distinction, is not repugnant to the Federal Constitution. The same is true of those laws in several of the states providing for separate schools, and separate coaches for white and colored people, for they are purposely based on race and color, which is specially inhibited by the Federal Constitutional. It is true that the marriage laws and separate car laws on their face seem to apply alike to both races. But in construing statutes courts will always have recourse to the history of the times, the cause, the purpose and object sought to be effected by the law. When tested by these rules it is plain to be seen that the object is to abridge as far as possible the civil rights of the colored people without flying in the face of the Federal Constitution. And in the practical administration of those laws it is a matter of common observation that while they are rigorously enforced against the colored people, they are scarcely ever enforced against the whites. The operation of the law is not only its best interpre-

tation, but the best evidence of the real purpose for which it was passed. This is the doctrine of the highest courts. The constitution of Indiana was adopted in 1851, when colored people were not citizens, and all the statute laws of that state in reference to them were enacted to keep them in a servile position, among which was the law prohibiting intermarriage between the races, denying school privileges, etc. To say that these laws are not specially aimed at the colored race is to say what no one familiar with the history of the country will credit for a moment. It must be said to the credit of the federal judiciary and most of the Supreme Courts of the Northern States that in every case involving these questions they have generally upheld the rights of the colored people. It is not believed that their rights will be jeopardized by resorting to the courts, especially the federal tribunals. In the history of all civilized countries the courts have always stood between the people and their oppressors, and it is the opinion of the writer that if the colored people would resort more to legal and less to the legislative tribunals for vindication of their rights, they would be more successful.

In all the courts where the question has been tested as to the rights of colored people in hotels, theatres, restaurants, barber shops, where they have been excluded therefrom on account of color merely, it has been held that they could not be discriminated against on that account. Of course, nearly all such cases have been decided by Northern courts, though not entirely so. In Donnell vs. State, the Supreme Court of Mississippi decided in 1873 that "a statute providing that colored people shall have equal privileges with white people in theatres is constitutional" (48 Miss., 661). The Supreme Court of Michigan has held that colored people cannot be restricted to any part of a public eating house on account of color; that they enter any public place on terms of perfect equality with white people (see 82 Mich., 358). The Supreme Court of Nebraska holds, in Messenger vs. State (25 Neb., 674), that the proprietor of a barber shop cannot refuse to shave a man because of his color. In Bailies vs. Curry (128 Ill., 281), the Supreme Court of Illinois holds that one cannot be refused admission to any part of a theatre on account of color. In Coger vs. Packet Co.

(37 Iowa, 146), the Supreme Court of Iowa holds that no discrimination can be made between passengers by a steamboat company on account of color. On the school question, the courts of only three Northern states, so far as my research has extended, have held valid the laws establishing separate schools for white and colored children, namely New York, Ohio and Indiana. In the first two of these states separate schools have been wiped out by legislative enactment. In the latter they still exist. In the Southern States I am not aware of any attempt on the part of the colored people to test their rights in the courts on the school question. It may be possible, owing to the influence of local sentiment, the courts of those states would hold against them on all these questions, though the writer does not wish to be understood as so affirming. However, the Supreme Court of Georgia, in a recent case, held that a colored passenger was entitled to the same protection on a railroad train as a white passenger, and for the company's failure in that respect it was liable in damages And it is believed that a more liberal and humane spirit is being exhibited by the courts of the South toward the colored citizens, whose rights are ruthlessly disregarded and trampled upon by the lawless element among the whites. But it matters very little in the long run how the local courts, North or South, would hold on any question which involved any fundamental right pertaining to a citizen of the United States, for by the Fourteenth Amendment he is, first, a citizen of the United States, and, second, of the state wherein he resides, and if he is unsuccessful in the state courts, he still has the right of appeal to the federal Supreme Court. It is the general impression among intelligent colored people that the decision of the Supreme Court in the "Civil Rights Cases," 109 U. S. Reports, effectually cut off this right and left them entirely to the local tribunals. No case, perhaps, was decided by that court, which is more generally misunderstood than this one. As the writer understands the case, he agrees with its conclusion, though not altogether with the reasoning of the court. The Civil Rights Act was passed by congress in virtue of the Fourteenth and Fifteenth Amendments. Those amendments prohibit the states from passing any law, rule or regulation

which would have the effect to discriminate between citizens on account of race or color. The Civil Rights Act went further and applied to individuals who might do so. This the court held that congress, under the above named amendments, had no power to do. That congress could not pass a primary or local law operative in any place not under its exclusive control. That it would be presumed that the states would furnish an adequate redress to their citizens for the denial of any right. That a citizen of a state cannot in the first instance resort to the federal courts to vindicate a civil right, and that, so far as that act authorized him to do so, it is void. This is the essence of the decision. It does not say that a citizen has no right of appeal. Any case involving any rights which pertain to one as a citizen of the United States, if properly brought and the questions are raised in such a way as to make them an essestian element in the case, can be taken by appeal or writ of error to the Federal Supreme Court from the Supreme Court of any state. And it is far better that all such questions should be settled by judicial decisions than to attempt to do so by legislative enactment. It is well known that the decisions of the courts are as a rule respected and implicity obeyed by every one. Numerous cases might be cited that were very obnoxious to public sentiment in the communities affected by them, yet the writer is unable to recall an instance where they have been openly defied by any considerable number of people. This is not true, however, of enacted laws. The rule is that unless public sentiment in the community to be affected by them is favorable to such laws, they are honored more in their breach than in their observance. And the reason is that such laws are usually of a partisan nature and origin, or at least thought to be by those who are opposed to the party in power, and if the degree of opposition is strong enough they will seek in every way to evade such laws, if they do not openly defy them.

But the judiciary being looked upon on all hands as nonpartisan, its decrees are acquiesced in and obeyed. The advice of the writer, who is a colored man, and in deep sympathy with the oppressed of all races, and more especially with his own, is this: Do not depend on political parties for a redress of grievances, but go to the courts. The colored people theoretically have all the rights that the whites have, and the

only thing to do now is to compel a proper observance of them by judicial degree.

Evil Effect of the Separate Coach Law.

No more cruel or unjust law has ever been placed upon the statute books of a state than that known as the Separate Coach Law recently enacted by the legislature of Kentucky.

This law, inspired by prejudice, has nothing at all to commend it for public favor, and is receiving the hearty condemnation of all liberty loving and unprejudiced persons.

As a measure calculated to work positive harm and injury to a people it has fully served the purpose of the most bitter persecutors of the race. The disadvantages incurred by its enforcement have fallen with blighting effect upon the colored citizens of Kentucky.

It has crippled their institutions of learning by rendering the travel of students odious and repulsive, compelling them to accept of passage in cars unfit for the educated and refined of any race.

However much they may desire to attend institutions of learning at a distance from home, where travel by rail is necessary, their better nature rises in earnest protest against the acceptance of the humiliating conditions of travel imposed upon them, and as a consequence some of the best institutions of Kentucky are being seriously hindered in their work.

Our conferences, associations and presbyteries, where incalculable good is done by the interchange of ideas by ministers of the various denominations, are robbed of the presence of some of the race's brightest minds on account of the humiliating conditions of travels on the railroads.

Many who find it necessary to travel are doing so by boats, buggies and wagons, some even preferring to walk rather than submit to the indignity imposed by the enactment of the Separate Coach Law.

The railroads, though strongly opposed to the passage of the law, are great sufferers by its enactment, for, beside the expense of placing partitions in their cars, they are compelled to haul them on every passenger train when the travel does not justify it. The colored people, too, wherever possible, are

letting the railroads in Kentucky severely alone, thus depriving them of hundreds of thousands of dollars that formerly went to swell their exchequer and increase the size of their dividends.

This determination to boycott the railroads is not confined to the Negroes of Kentucky alone, but by the Negroes of the entire United States, who look upon the passage of the law in Kentucky as a blow aimed at the entire race.

Heretofore excursions by the colored people throughout the state where frequent and numerous, representing an annual expenditure of $100,000.

Now all is changed, and excursions are discouruaged on every hand.

The following letter from Miss Ida B. Wells (Iola), one of the brightest women of the race, is selected from a score of others of similar import as expressive of the feeling of our race leaders:

New York, June 20, 1892.

Messrs. C. C. Monroe, Eugene Evans, E. E. Underwood et al. of Executive Committee, Lexington, Ky.:

Gentlemen—Observing by the Louisville Champion that you have issued a call for a convention of Negro citizens to meet in Lexington June 22d, to consider plans for the setting aside of the Separate Coach Law, lately enacted in your State, I take the liberty of addressing you.

Although not a citizen of Kentucky, I am a member of the race, and so deeply interested in any plans you may formulate that I should invite myself to be present at your deliberations did time and circumstances allow.

As most of you probably know, I was editor of a paper, "The Free Speech," in Memphis, Tenn., which has been suppressed because of our defense of the race. I have lately connected myself with The Age.

If I may take the liberty to offer a suggestion, it would be that every preacher or public man, every delegate make himself a committee of one to use his influence with the people to keep them off the railroads. Besides the other measures you adopt, this line will have a wonderful effect. You can only

Delegation of Ladies appearing before and addressing the Joint Railroad Committee at Frankfort.



Mrs. L. B. SNEED, A. M.
Louisville, Ky.



Miss M. E. BRITTON,
Lexington, Ky.



Miss L. E. GREEN,
Frankfort, Ky.



Miss L. B. TIBBS
Danville, Ky.

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touch the white man's heart through his pocketbook. Make it worth their while to repeal the law and they will do it without urging and without other appeal than the silent one of self-interest.

I see by the dispatches that already the determination is expressed not to have excursions or picnics this year, and the railroads will lose $100,000 by it. That's the kind of action which will tell, and the gods help them who help themselves. The Negro has waited too long and in vain for help. He can help himself, and it is my earnest prayer that your convention will set for the race such an example of self-help. Respectfully,

IDA B. WELLS.

The railroads of Kentucky are in no wise responsible for the passage of this obnoxious law, yet its evil effects have fallen heavily upon them.

The Negroes of Kentucky and of the nation are anxious and determined that the law be declared unconstitutional in order that they may rid themselves of its obnoxious features throughout the entire Southland. In this they are determined and are receiving assurances of kindly sympathy and aid from their friends.

The injustice of the law is apparent; not the merest pretext can be set forth in justification of its passage.

It is a species of class legislation intended to retard the progress of a race whose opportunities for advancement have been few indeed. In direct opposition to the spirit of our Constitution—the Negro does not intend to sit quietly down and allow such pernicious legislation to be placed upon the statute books without a protest.

The great Christian heart of this country is in entire sympathy with us, and is ever ready and willing to aid and assist the weak and oppressed.

Eminent counsel have been retained and an earnest and determined effort is being made to have the obnoxious law annulled by proving its unconstitutionality and showing up the animus that inspired its origin .

Ex-Governor Hoadley, Robert G. Ingersoll and other excellent and learned gentlemen, well versed in the law, express opinions which indicate clearly their belief that this unjust

piece of class legislation can be easily set aside owing to its being in direct opposition to the spirit of our Constitution. A united and determined effort on the part of the Negro himself is necessary.

Funds must be secured for various purposes, the Negro must provide those funds, and, indeed, if he be worthy of such assistance as he is now seeking, there must be some effort of his own, some sacrifice must be made, his entire self for the time being must be consumed by the one idea. This done, and success is ours. The railroads are not our enemies; we have reasons to believe they, like ourselves, will hail with pleasure a decision of the court that shall declare the law unconstitutional.

Yet, in order to test the constitutionality of the law, it is necessary for us to bring suit against them as common carriers for complying with the provisions of this odious enactment. At the same time we realize that they are not responsible for the law, but are responsible for equal accommodations under the law.

Why should we not be successful? True, the classes opposed to our progress are united against us. We must organize and fight such iniquitous legislation.

Aid and assistance will come to us unasked when once we prove ourselves worthy of it. Work to destroy this barrier, to rid ourselves of this prejudice inspired measure.

Work as loyal race lovers and patriotic Kentuckians, who feel that the state is disgraced and a blot placed upon her fair name by the "enemies within her midst."

Letter from Hon. Cassius M. Clay.

White Hall, Ky., September 25, 1883.

Dear Sir—Yours of the 21st inst. is received.

1. Your (colored men's) rights to equality in railways and elsewhere are protected by the national constitution and the State of Kentucky especially.

2. Bill of Rights, Section 3, says: "All men, when they form a social compact, are equal; and no grant of exclusive, separate emoluments or privileges shall be made to any man or set of men except in consideration of public services," &c.

Here is the law or your (our) case. You do well to have the law-

yers of both the great parties. This is not a question of party, but of humanity. We must fight this case through all the courts and all our politics, and renew it and fight it forever, until the law and justice are established.

Suggestions to counsel:

1. The blacks, mulattoes and ex-white slaves are citizens, and voted (formed) this compact.

2. They are the best tenantry and laborers the South has, and all have been tried.

3. They are better suited for civilization and progress than the Indian races of this continent.

4. Their advancement in salary and their humanity to their masters' families call for ocean-like gratitude of those whites.

5. It is not a question of superiority in intellect, but of right.

6. The blacks, once and again the rulers of the world, were leaders in civilization. The Phoenicians were not whites; they were the conquerors of the most advanced nations, ruling Northern Africa, and holding superiority over Spain for 600 years, till luxury and consequent degeneration caused their expulsion and ruin.

7. Bishop Newman, in his late defense of the Christian religion, admitted that other than the Caucasian (white races), Buddha, Confucius, Zoroaster, Brahma and Christ Jesus were the founders of the five great religions of the world, and in this gave lead to the white races. Christ was not of the Caucasian race or races, but, if he were living in Kentucky to-day would be cooped up in the "Jim Crow" cars, to the horror of Bishop Newman himself! But volumes could be written on this issue.

8. The theory of the color cars lays the axe to the root of republican government. It attempts the degradation of the negro races (for they are more numerous than all the white races) in order to subject them to a worse than original slavery, which cost us so much blood and money to destroy.

9. It would make a new Ireland in America, and force three millions of blacks into a perpetual criminal class, evidences of which are already apparent. Men can only be civilized and moralized by love, not by terror of punishment. But enough.

I am by you and with you to the end.

CASSIUS MARCELLUS CLAY.

To E. E. Underwood, M. D., Secretary, Frankfort, Ky

THE JIM CROW CAR.

By Rev. Byron Gunner.

1. The devil seems determined to disgrace our grand old State,
For against the honest Negro he hath dared to legislate;
And the "jim crow" sep'rate coaches he would like to have us take,
But he never will succeed.

Chorus: Glory, glory, hallelujah!
Glory, glory, hallelujah!
Glory, glory, hallelujah!
But he never will succeed.

2. Now the Negroes of Kentucky have enlisted in the fight,
And against the "jim crow" coaches we shall labor day and night;
We shall stand like valiant soldiers 'gainst the wrong and for the right.
And the right will surely win.

Chorus: Glory, glory, hallelujah!
Glory, etc., etc.,
And the right will surely win

3. We have noble wives and daughters, we have loving sisters, too,
And to them we owe the duty to be loving, kind and true;
And we never shall permit them the old "jim crow car" to view,
For the "jim crow" law must go.

Chorus: Glory, glory, hallelujah!
Glory, etc., etc.,
For the "jim crow" law must go.

4. Yes, the "jim crow" law is wicked, and to it we'll never yield;
We shall fight it to the finish, it must surely be repealed;
Though old satan will be angry, we shall drive him from the field,
And the "jim crow" law must go.

Chorus: Glory, glory, hallelujah!
Glory, etc., etc.,
Yes, the "jim crow" law must go.

AFTER THE WAR.

Tune: "After the Ball."

A little maiden climbed an old man's knee,
Begged for a story; "Do uncle, please,
Tell me of the Negro, that wondrous man
Who won't submit to oppres sion's hand."
"Once on a time, dear, this struggling race
Lay crushed in bondage, no home, no place
To call their own, child, for slavery's bond
Weighted them down, dear, in this 'free' land.

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PROMINENT WORKERS AGAINST THE SEPARATE COACH LAW OF KENTUCKY.



NED TURNER.
Hopkinsville, Ky.



REV. ROBT. MITCHELL.
Bowling Green, Ky.



REV. E. L. GILLIAM.
Louisville, Ky.



HON. N. R. HARPER.
Louisville, Ky.



JNO. E. HUNTER, M.D.
Lexington, Ky.



W. R. HARDING
Owensboro, Ky.



REV. BYRON GUNNER.
Lexington, Ky.



REV. P. H. KENNEDY.
Henderson, Ky.



PROF. W. D. JOHNSON.
Louisville, Ky.



REV. D. R. WILKINSON.
Lexington, Ky.



DR. J. H. GARNETT, A.M.
Louisville, Ky.



RICHARD VARIAN.
Owensboro, Ky.



P. D. ROBINSON, M. D.
Lexington Ky.



J. M. PETERS, M.D.
Owensboro, Ky.



PROF. D. H. FOSTON.
Henderson, Ky.

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Chorus:

After the chains were broken;
After the fetters gone;
After their slaves had left them;
After they all had flown,
Many a heart is aching
If we could read them all,
Many the hope that has vanished
After the war.

Then came the war, child, that awful strife,
Where many a true man laid down his life
And when 'twas over God's loving hand
Lifted the awful curse from the land.
Homeless and friendles wandered the slave;
No arm to strengthen; no hand to save.
By his own efforts he's gained the height
Where we behold him standing for right.

Chorus—

Now in Kentucky, that grand old State,
They've learned to watch the negro of fate;
They find him fast outstripping the whites,
And from the sight they've turned with affright.
Only one course is left to them now:
We'll take from his rights, and he'll bow!
So, with a cunning natural, they call
A meeting, and bring out the Separate Coach Law.

Up from the Negro rises a call,
And from all points they come, one and all,
Ready to work with heart and with hand
To throw oppressors' yoke from the land.
Heaven send them strength for the work they've begun;
God help the workers and bless every one.
May the oppressors every one learn
That with this last strike the worm has turned."

—Mrs. Sadie B. Reid.

Bridgeport, Ky.

SOMETHING THAT PASSES OVER THE DARK AND BLOODY GROUND.

By Bettie Roselle Webb.

What a terrible clamor ,echoing shrill,
Goes through the fair Southern land;
See the smoke rise o'er the ristant hill?
The bell rings by the sooty fireman's hand.
Hear the wsistle sounding through the town?
It is now passing over the dark and bloody ground.

We gaze on it as if bound by some magic spell,
Humanity's future hope hangs breathless on its fate;
Hear through the valley the long echoing swell,
As it goes through Kentucky, this fair Southern State—
See it rushing by—hear the sound?
It is now passing over the dark and bloody ground.

They are built by hands, by human hands,
And pass through every Southern town;
They are in the region of the Blue Grass Land,
And are as disgusting as a circus clown;
At their wicked walls we frown
As they pass over the dark and bloody ground.

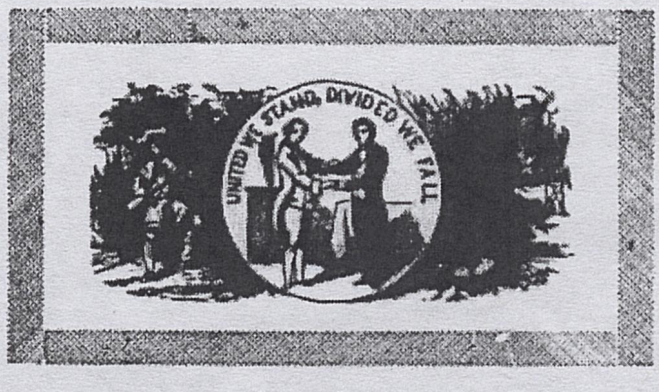
Will the Merciful One who stamped our race
Allow such injustice to be done,
And dim the bright smile of Nature's face,
By our fellow creatures who try us to shun;
Will this color line always abound
O'er the plains of the dark and bloody grounds?

In a noble cause for justice we are contending,
And may our zeal be in Heaven recorded;
We all join in prayer to Heaven ascending,
That with success we may on earth be rewarded—
When race prejudice ceases to sound
Through Kentucky, which means: The dark and bloody ground.

With a vim and a vigor that none can excel,
Go Monroe and Underwood speaking
With courage of this great injustice to tell,
For equal respect we are seeking;
And may their names ever be renowned,
O'er the plains of the dark and bloody grounds!

And when we have conquered this foe of the land,
Let Monroe sound the first signal gun,
Let Underwood act as sexton, grasping the rope in his hand
Until the bell rings to tell that some great deed is done.
While the bells are tolling their glad peals shall sound
Far different to those now sounding over the dark and bloody ground.

Georgetown, Ky.



The "History of the Anti-Separate Coach Movement" edited by Rev. S. E. Smith, D. D., and published by the National Afro-American Journal and Directory Publishing Co., is heartily endorsed by the Anti-Separate Coach State Executive Committee. Such a work will materially aid in molding public sentiment in our favor and at the same time swell our funds for testing the constitutionality of the iniquitous law. It should be placed in the home of every Afro-American in the land.

Yours for the race,

E. E. Underwood, M. D.,

Secretary Executive Committee.



Thos. S. Pettit.

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WILLIAM ROBERT TODD.

Wm. Robert Todd was born in Franklin County, Ky., of slave parents in 1845. He lived on a farm until he was 16 years of age. He had a great desire for the pleasant mysteries of books, which was denied him by his mistress; but at the age of 10 years he had with the help of one of the slaves learned to read and spell, and had gained a limited knowledge of figures. During the days of his childhood was noticed in him a disposition to love tools, a likeness to analyze objects, and that he was a natural synthesis in method. Mr. Todd has a natural ability to handle the carpenter's tools; he has worked on some of the notable buildings in the city and state. He professed a hope in Christ in the year of 1865, and connected himself with the A. M. E. Zion Church, where he has labored assiduously for years. He for a short time served as trustee of the advisory board of trustees of the city, and his views while acting in this capacity were liberal and free from narrow-minded decisions. As an orator he speakes fluently and eloquently. Mr. Todd is one of the stable citizens of Frankfort, and takes a great interest in everything pertaining to the elevation of his race.

J. W. HEAD.

The subject of our sketch, Mr. J. W. Head, an active member of the State Central Committee, was born in Logan County, Ky., in 1868. His early life was spent on a farm in pursuits common to the average country lad. When but a boy he showed a deep interest in books, improving every opportunty, he soon learned the rudiments of English. As a student he was industrious and honest. On completing a common school education he engaged in teaching as a life profession. Since which time he has made a valuable reputation for himself and is looked upon as being thorough and proficient in his work. As a citizen our subject has the confidence and esteem of all who know him. As a race worker he has but few superiors in the state in which he resides. Though a young man, he takes a deep interest in everything pertaining to the elevation and advancement of his race, and

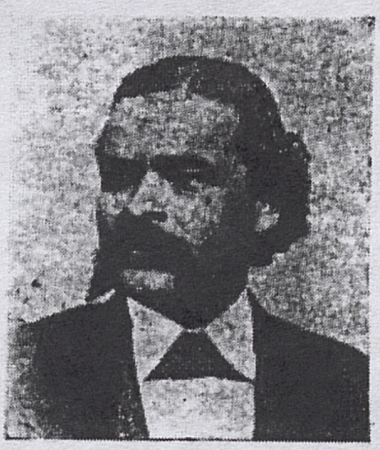
can be depended upon to do his part in the support of all worthy race enterprises.

MISS L. B TIBBS.

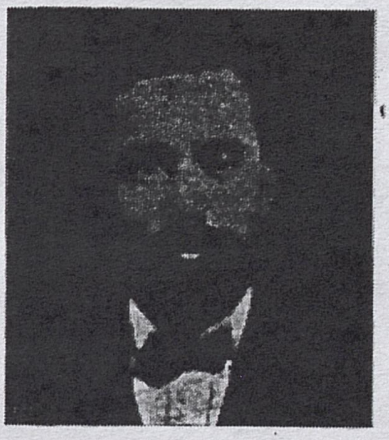
One of the bright young women of her race is Miss L. B. Tibbs, of Danville, Ky., one of the number of ladies making addresses before the Joint Railroad Committee at Frankfort. Miss Tibbs is an active worker for the advancement of her race, a brilliant thinker and a pleasing talker. She is deeply interested in everything pertaining to the elevation and good of her people. The future has much in store for her and by perseverance, with the ability which she has, she is destined to reach the highest plane of usefulness and accomplishment in life.

LOCAL COMMITTEE, FRANKFORT, KY.

Active Workers in the first movement against the Separate Coach Law.



RICHARD HIGDON.



W. R. TODD.



JAMES W. WOOLFOLK.



PROF. J. H. JACKSON.



B. T. HARVEY.

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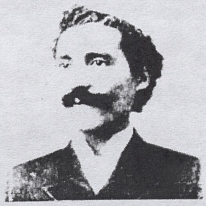
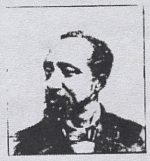


Rev. J. H. FRANK, D.D.



MARTIN E. BOYD.



HON. W. H. STEWARD,
Esquirer.

The Dreaded Act Decided Unconstitutional.

HIS HONOR, JUDGE JOHN W. BARR, RENDERS THE FOLLOWING DECISION ON THE CONSTITUTIONALITY OF THE SEPARATE COACH LAW OF KENTUCKY. A DECISION WHICH CARRIES WITH IT GLADNESS TO THE HEARTS OF OVER EIGHT MILLION PEOPLE: "IT IS NOT A LAW."

The Anti-Separate Coach movement wins the first round in its efforts to destroy the separate coach law. The opinion of United States Judge, Barr, quoted below, declares the act unconstitutional so far as it interferes with interstate commerce, and the railroad company's demurrer is overruled. The issue will be joined now and no matter how it is decided the case will be taken to the highest court. This much is known, that the L. & N. R. R. Co., against whom the test suit is brought, is determined to carry it through to the end. The following is the opinion of Judge Barr, delivered in the United States Court at Owensboro, June 4, 1894.

"Plaintiff W. H. Anderson in his petition says that he and his wife purchased two full first class tickets from Evansville, Ind., to Madisonville, Ky., and entered the defendant's car at Evansville, usually designated the ladies' car, where they had a right to be, and that this right was recognized by the conductor of the train taking up their tickets and exchanging for them the usual conductor's check. He alleges that they remained undisturbed in their seats as long as the train was without the state of Kentucky, but when the train came into said state, the conductor required him and his wife to give up their seats and go into a compartment in a car immediately in front, which had been set apart for colored persons exclusively. He alleges that he and his wife refused to occupy said compartment, and thereupon said conductor wrongfully refused to carry them further on said train and put them off without right and against their consent.

"In the second paragrph the plaintiff alleges that on another occasion he and his wife purchased over the defendant's railroad two full first-class tickets from Henderson, Ky., to Madisonville, Ky., and that they entered defendant's train and seated themselves in the car designated for white persons exclusively, and that afterward the conductor of the train took up their tickets and exchanged them for the usual conductor's checks, and then required them to go into a compartment of the car which was and had been designated for colored persons exclusively, but they refused to go, and he put them off at Robard's Station, which was thirty miles distant from Madisonville. The defendant demurred to both these paragraphs of plaintiff's petition, and thus raises the question of the constitutionality of an act of the Kentucky legislature, entitled 'An act to regulate the travel or transportation of the white and colored passengers on the railroads of this state;" approved May 24, 1892. as follows:

"Section 1. Any railroad company or corporation, person or persons, running or otherwise operating railroad cars, or coaches by steam or otherwise, on any railroad line or track within this State, and all railroad companies, person or persons, doing business in this State, whether upon lines of railroads owned in part or whole, or leased by them; and all railroad companies, person or persons, operating railroad lines that may hereafter be built under existing charters, or charters that may hereafter be granted in this State ;and all foreign corporations, companies, person or persons organized under charters granted or that may hereafter be granted by any other state; who may be now, or may hereafter be engaged in running or operating any of the railroads of this State, either in part or in whole, either in their own name or that of others, are hereby required to furnish separate coaches or cars for the travel or transportation of the white and colored passengers or their respective lines of railroads. Each compartment of of a coach divided by a good and substantial wooden partition, with a door therein, shall be deemed a separate coach, within the meaning of this act, and each separate coach or compartment shall bear in some conspicuous place, appropriate words, in plain letters, indicating the race for which it is set apart.

"Section 2. That the railroad companies, person or persons shall make no difference or discrimination in the quality,

convenience or accommodations in the cars or coaches or partitions set apart for white and colored passengers.

Section 3. That any railroad company or companies, that shall fail, refuse or neglect to comply with the provisions of Sections 1 and 2. of this act, shall be deemed guilty of a misdemeanor, and upon indictment and conviction thereof shall be fined not less than five hundred nor more than fifteen hundred dollars for each offense.

Section 4. That all circuit courts in which railroads are operated in this district shall have complete jurisdiction over such offenses.

Section 5. The conductors or managers on all railroads shall have power and are hereby required, to assign to each white or colored passenger his or her respective car or coach or compartment; and should any pasenger refuse to occupy the car, coach or compartment to which he or she may be assigned by the conductor or manager, said conductor or manager shall have the right to refuse to carry such passenger on his train, and may put such passenger off the train; and for such refusal, and putting off the train, neither the manager, conductor nor railroad company shall be liable for damages in any court.

Section 6. That any conductor or manager on any railroad, who shall fail or refuse to carry out the provisions of Section 5 of this act, shall, upon conviction, be fined not less than fifty nor more than one hundred dollars for each offense.

Section 7. The provisions of this act shall not apply to employes of railroads, or persons employed as nurses, or officers in charge of prisoners.

"This act makes no discrimination in favor of white passengers since any discrimination in the equality, convenience or accommodation in the cars and compartments set apart for white and colored passengers is prohibited. It may be that some of the railroad companies of this state fail to provide equal accommodations for its colored passengers as that they provide for white passengers, but this difference is not recognized by this statute, but prohibited.

"The Fourteenth Amendment to the Constitution of the United States prohibits discrimination by a state because of race or previous condition of servitude, and, indeed, secures to all of its citizens certain fundamental rights as against state action, but it does not secure the joint and common enjoyment

of such right which is secured. (Civil Rights cases, 109 U. S., 1; U. S. vs. Bunlen, 10 Fed. Rep., 730; Claybrook vs. Owensboro, 16 Fed. Rep., 297.)

"The next inquiry is whether this statute is in violation of the commerce clause of the Constitution of the United States, which gives congress the exclusive right to regulate commerce with foreign nations and among the several states.

"If this statute be constructed to include the internal commerce of the state of Kentucky, and not to apply to interstate commerce, it is a proper exercise of the police power of the state and is constitutional as has been settled in the case of L., N. O. & T. R. R.Co. vs. Mississippi, 133 U. S., 308. The case of the L., N. O. & T. R. R Co. vs. Mississippi came to the Supreme Court upon the question whether or not the railroad company was obliged under the requirement of the state of Mississippi to furnish separate cars or compartments for colored passengers whose passage commenced and ended in the state, and a majority of the court did not attempt to decide whether the statute would have been constitutional if it had applied to interstate commerce. There was, however, a dissent by Justices Harlan and Bradley, because they considered that statute as an attempt to regulate interstate commerce. The Kentucky statute has never been construed by the Court of Appeals of the state and we must determine whether it includes interstate commerce as well as internal commerce. The title of the act is to regulate the travel or transportation of white and colored passengers on the railroads of this state, and in terms it applies to all companies, corporations or persons operating railroads by steam or otherwise within the state and to all conductors of trains thus operated. And it requires all such conductors under penalty of a fine to assign to each white or colored passenger his or her respective car or compartment.

"This language is so broad and comprehensive that we conclude it must embrace all passengers whether their passage commences in a foreign country or in another state of this Union and ends elsewhere than in this state.

"The act seems to divide all persons traveling on railroads in this state without regard to the place whence they came or whither they go into two classes and, that on the color line. All white passengers in one class and all other passengers in



WM. H. HUNTER

Owensboro, Ky.

WM. H. HUNTER.

One of the best known men in the state of Kentucky is the subject of our sketch. Mr. Wm H. Hunter of Owensboro, Ky. Mr. Hunter though not an educated man has very creditably domonstrated the ability of the Negro to accumulate and enmass property and fortune. Being born a slave in 1853, a native of Donasonville, Louisiana, he has labored under many disadvantages in reaching his present position in life.

His early life was spent in persuits common to the average slave child until 1866, at which time he made his way to Owensboro where he found employment in a tobacco factory, where he received $3.00 per week. Yet out of this meager salary he managed to save money, and by honesty, economy and thrift was soon able to do better. At the age of sixteen he entered the common schools of Owensboro where he received his first training, and for four years proved himself a studious and apt scholar. In 1873, he was married for the first time in life to a young lady of the "Blue Grass Regoin" by the name of Miss Bettie Porter. For four years prior to 1884, Willam Hunter was but a humbe brick layer in the city in which he now lives. Having saved his earnings he at this time embarked in bnsiness, opening up a hotel and restaurant coupled with a saloon and billard hall, in which he has since made a remarkable success. Today Mr. Hunter is one of the largest property owners of Owensboro. Among other property owned by him is a valuable brick block worth, it is estimated, $40,000, a valuable lot on the principal street of the city valued at $55.00 per front foot, besides nine valuable houses and lots, four vacant lots, a fine farm and personal property said to be worth near $70,000. Mr. Hunter expresses a deep interest in the Separate Coach fight now in progress and can be depended upon to aid materially through healthy contributions to the Anti-Separate Coach fund.

another. If this be the correct construction of this act. the question as to the constitutionality of the entire act arises, as the court cannot separate one part of the act from another and leave the constitutional part valid and enforcible. Where the provisions of an act are distinct and separate and the court can determine by construction the constitutional part of an act from the unconstitutional parts, and can presume the legislature would have enacted the constitutional part of an act, without the unconstitutional part, it may declare a part of an act unconstitutional and the other enforcible, but this cannot be done with this act."

"Baldwin vs. Frank, 120 U. S., 678, and cases cited.

"The transportation of passengers is commerce, and the relation of commerce 'with foreign nations and among the several states' is exclusively in congress; yet there are many state laws that incidentally affect foreign and interstate commerce which have been held constitutional.

"The Supreme Court has declined to attempt to lay down a definite rule by which may be determined what is a regulation of foreign and interstate commerce, and how far the several states may legislate upon the subject. It is often most difficult to determine the line of demarkation which separates the power of congress from that of state legislatures, but we think the principle which determines the case under consideration has been decided by the Supreme Court in Hall vs. DeCuir, 95 U. S., 485. In that case the Louisiana statute, as the state court construed it, forbid common carriers of passengers to separate the passengers carried by them on account of race or color while in their charge in that state, and authorized a recovery of exemplary as well as actual damages by any passenger who was thus separated without his or her consent.

"The Supreme Court held the act unconstitutional as affecting foreign and interstate commerce, although DeCuir, who was a woman of color, took passage upon the steamer Governor Allen, at New Orleans to Hermitage, which was a landing within the state of Louisiana. She was refused accommodations on account of her color in a cabin of the boat specially set apart for white persons, and brought suit therefor and recovered damages in the state court. Chief Justice Waite said: 'If each state was at liberty to regulate the conduct of carriers while in its jurisdiction, the confusion likely to follow

could not but be productive of great inconvenience and unnecessary hardship. Each state could provide for its own passengers and regulate the transportation of its own freight, regardless of the interests of others. Nay, more, it could prescribe rules by which the carrier must be governed within the state in respect to passengers and property brought from without. On one side of the river or its tributaries he might be requird to observe one set of rules, and on the other another. Commerce cannot flourish in the midst of such embarrassments. No carrier of passengers can conduct his business with satisfaction to himself, or comfort to those employing him, if, on one side of a state line, his passengers, both white and colored, must be permitted to occupy the same cabin, and on the other be kept separate. Uniformity in the regulations, by which he is to be governed from one end to the other of his route, is a necessity in his business, and to secure it, congress, which is untrammelled by state lines, has been invested with the exclusive legislative power of determining what such regulations shall be. If this statute can be enforced against those engaged in interstate commerce, it may be as well against those engaged in foreign, and the the master of a ship clearing from New Orleans for Liverpool, having passengers on board, would be compelled to carry all, white and colored, in the same cabin during his passage down the river, or be subject to an action for damages, "exemplary as well as actual," by anyone who felt himself aggrieved because he had been excluded on account of his color. Neither this language or decision has been modified or changed by the court in Louisville, etc., Railway Company vs. Mississippi, 133, United States. The court in that case, after quoting a part of the opion in Hull vs. De Cuir, said: "So the decision was by its terms carefully limited to those cases in which the law practically interfered with interstate commerce.

"Obviously, whether interstate passengers of one race should, in any portion of their journey, be compelled to share their cabin accommodations with passengers of another race, was a question of interstate commerce, and to be determined by congress alone. In this case the Supreme Court of Mississippi held that the statute applied solely to commerce within the state, and that construction being the construction of the statute of the state by its highest court, must be accepted as conclusive here. If it be a matter respecting wholly commerce

within a state, then obviously, there is no violation of the commerce clause of the Federal Constitution. Counsel for plaintiff in error strenuously insists that it does affect and regulate interstate commerce, but this construction cannot be maintained." It cannot be doubted under this latter decision the State of Kentucky could constitutionally pass a law which would require separate cars or compartments for white and colored passengers, when their travel commences and ends in the state. See also Wabash, etc., Railway Company vs. Illinois, 118, p. 5; Louisville, etc., Railway Company vs. Mississippi, 66, miss. 662; State vs. Hicks, 44, La. An Exparte Plessy 45, La. Ann., S. C., in Southern Rep., 748 and 948. The trend of recent cases in the Supreme Court has been to fully sustain the doctrine of the exclusiveness of the power of Congress over interstate and foreign commerce

Thus, in the case of Wabash, etc., Railway vs. Illinois, 118 United States, 557, the court held unconstitutional a statute of Illinois, which, enacted, that if any railroad corporation shall charge, collect, or receive for the transportation of any passenger or freight of and description upon its railroad, for any distance within the state, the same or a greater amount by toll or compensation than is at the same time charged, collected, or received for the transportation in the same direction of any passenger or like quantity of freight of the same class over a greater distance of the same road, all such discriminating rates, charges, collections, or receipts, whether made directly or by means of rebate, drawback or other shifts or evasion, shall be deemed and taken against any such railroad corporation a prima facie evidence of unjust discrimination which was prohibited under penalty by the act in Robbin vs. Shelby Taxing District, 120 U. S., 489, the court held an act of Tenn. unconstiling a regular licensed house of business in the Taxing District of Shelby County, offering for sale or selling goods, wares or merchandise, therein by sample, shall pay to the county trustee the sum of $10 per week, or $25 per month for such privilege. This was because it applied to persons soliciting the sale of goods on behalf of individuals and firms doing business in another state and so far was a regulation of commerce among the states. In the case of Minnesota vs. Barker, 136 U. S., 313, the court held a statute of Minnesota which required as a condition of sales in that state of fresh beef, veal, mutton, lamb or

pork, for human food, that the animals from which such meats are taken, shall have been inspected in that state before being slaughtered unconstitutional and void as an interference with inter-state commerce, and again in the case of Crutcher vs. Kentucky, 141 U. S., 147, the court held an act of the Kentucky Legislature which provided that the agent of an express company not incorporated by that state should not carry on business in the state without first obtaining a license from the state and that he could not obtain such license until he satisfied the auditor of the state that the company he represented had an actual capital of at least $150,000 as unconstitutional and void.

The court said in that case: But the main argument in support of the decision of the Court of Appeals is that the act in question is essentially a regulation made in the fair exercise of the police power of the state. But it does not follow that everything which the legislature of a state may deem essential for good order of society and the well-being of its citizens can be set up against the exclusive power of congress to regulate the operations of foreign and inter-state commerce. We have lately expressly decided in the case of Leiry vs. Hardin, 135 U. S., 100, that a state law prohibiting the sale of intoxicating liquors is void when it comes in conflict with the express or implied regulation of inter-state commerce by Congress declaring the traffic in such liquors as articles of merchandise between the states shall be free.

These and other cases show that the Supreme Court has had occasion and has given the subject of this exclusive power of Congress to regulate foreign and inter-state commerce much consideration, and have insisted upon the exclusiveness of this power even as against the exercise of the police power by the several states of this Union: "Whether or not the regulation of the defendant company that there should be separate cars or compartments for white and colored passengers and the passengers be thus separated is proper and reasonable, cannot arise in this demurrer, as there is nothing in the record showing any regulation or rule by the company. The question of the reasonableness of such regulation of the company can only arise when the regulation is hown to have been made by company. Chicago, etc., Railroad Company vs. Williams, 55 Illinois; 185. The defendant's demurrer to the petition must be overruled, and it is so ordered."