CIVIL RIGHTS.

THE OUTRAGE OF THE SUPREME COURT OF THE UNITED STATES UPON THE BLACK MAN.

REVIEWED IN A REPLY TO THE NEW YORK "VOICE," THE GREAT TEMPERANCE PAPER OF THE UNITED STATES.

BY

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Of the African Methodist Episcopal Church.

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Editor the Voice:

Will you please tell us through the columns of the *Voice* to what Bishop Turner referred when in a recent interview with one of your reporters, he spoke of a decision of the Republican Supreme Court, "declaring that colored people may be turned out of hotels, cheated, abused and insulted on steamboats and railroads, without legal redress, etc."

Some of our good Republican friends are quite indignant over his statement, and evidently think that their party is still setting up rights to lose the colored man.

J. B. CLARK, Centreville, Pa.

EDITORIAL ROOMS OF "THE VOICE."
NEW YORK, December 20, 1888.

BISHOP H. M. TURNER, D.D., LL.D., Atlanta, Ga.

Dear Sir:—I respectfully refer the enclosed letter to you. Will you be kind enough to send *The Voice* a brief statement of the facts, citing the decision that is referred to?

Respectfully,
ED. THE VOICE.

Editor of the New York Voice:

Amidst multitudinous duties I find, calling my attention, your note of recent date, asking me to briefly refer to the "Civil Rights Decisions," which, since their delivery has drawn from me expressions which many are pleased to call severe adverse strictures upon the highest court in this country, and upon all of its judges save one, Mr. Justice Harlan. It is to me a matter of that kind of surprise called wonder suddenly excited, to find a single, solitary individual who belongs in the United States, or who has been here for any considerable time, unacquainted with those famous FIVE DEATH DEALING DECISIONS. Indeed, sir, those decisions have had since the 15th day of October, A. D., 1883, the day of their pronouncement, more of my study than any other civil subject. I incline to the opinion that I have an argument which, taken as a concomitant of the learned dissenting sentiments of that eminent jurist, Mr. Justice Harlan, would to a rational mind, make the judgment of Justice Bradley and his associates a deliquescence—a bubble on the wave of equity—a legal nothing. You bid me in my reply to observe brevity. Shortness and conciseness seems to be the ever present rule, when the Negro and his case is under treatment. However, I am satisfied that in saying this, I do not convey your reason for commanding me to condense, "boil down." The more I ponder the non-agreeing words of that member of our chief assize, who had the moral courage to bid defiance to race prejudice, the more certain am I that no words of mine, condemnatory of that decision, has been sufficiently harsh.

March 1st, 1875, Congress passed an act, entitled, "An act for the prevention of discrimination on the ground of race, color or previous condition of servitude," said act being generally known as the Civil Rights Bill, introduced during the life time of the Negro's champion, the immortal Chas. Sumner. The act provided:

SEC. 1. "That all persons within the jurisdiction of the

United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land or water, theatres and other places of public amusements. Subject only to the conditions and limitations established by law and applicable alike to citizens of every color and race, regardless of any previous condition of servitude."

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offence forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred, nor more than one thousand dollars, or shall be imprisoned not less than thirty days, nor more than one year. Provided, that all persons may elect to sue for the penalty aforesaid, or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this provision shall not apply to criminal proceedings, either under this act or the criminal law of any State. And, provided further, that a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively." Here we have the exact language of the law:

First, what is forbidden; second, the penalty; third, the mode for gaining redress; and fourth, the defendants security against excessive punishment. The questions that come forward and will not down are: Was this law just? Did this law violate the principle which should be foremost in every hall of legislation; hurt no one, give unto every man his just due? Should the color of one's skin deny him privileges any more than the color of one's hair, seeing that the individual had nothing to do with the cause for the one or for the other? Before attempting to answer

the above questions, which must and will suggest themselves to every *compos mentis*, we state the constitutional amendments upon which the act, under consideration, was founded and upheld. We cannot see how one so learned in the law as Mr. Justice Bradley is presumed to be, by reason of his exalted position, can see only the Fourteenth Amendment as the part of the Constitution relied on. It is undeniably patent to all, that the Thirteenth Amendment more nearly expresses the foundation for the "act." The language of the Thirteenth Amendment, says:

SEC. 1. "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have duly been convicted, shall exist within the United States, or any place subject to their jurisdiction." This amendment in its second section, declares that "Congress shall have power to enforce this article by appropriate legislation." Under this article, alone, I am satisfied that our National Legislature had full warrant and authority to enact the law now abrogated. The Fourteenth Amendment to the Constitution provides that "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 the citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person in its jurisdiction the equal protection of the laws." Upon these two amendments, say these wise judges, depends the constitutionality of the act or law under discussion.

In October, 1882, five cases were filed or submitted: United States vs. Stanley, from Kansas; United States vs. Ryan, from California; United States vs. Nichols, from Missouri; United States vs. Singleton, from New York; and Robinson and wife vs. Memphis and Charleston Railroad Company, from Tennessee. Our learned (?) Judges occupied a year in considering what their dicta should be. October 15th, 1883, found Justice Bradley in his place, on the bench, prepared to voice the opinion of the court as to the rights of more than seven millions of human beings. Mr. Solicitor-General Phillips, had delivered his argument for the life of the law to be main-

tained. The argument of the Solicitor-General had been supplemented by the eloquent efforts of Mr. William M. Randolph, on behalf of Robinson and wife. Numerous authorities were cited to show that where the Constitution guarantees a right, Congress is empowered to pass the legislation appropriate to give effect to that right. It was also maintained and established by judicial precedents, that the constitutionality of the act was not harmed by the nice distinction of "guaranteed rights," instead of "created rights." Justice Bradley consumes seventeen pages, to do what in his conscientious (?) opinion he believes to be right. Justice Harlan, in opposing the position taken by Mr. Bradley, occupies thirty-seven pages. After reciting the law countenancing the actions instituted by the sorely aggrieved persons, the first question which propounded itself to the member reading the opinion was: "Are these sections constitutional?" After taking space and time to tell what it is not the essence of the law to do, the Honorable Judge in *obiter dictum* language says: "But the responsibility of an independent judgment is now thrown upon this Court; and we are bound to exercise it according to the best lights we have."

Why this apologetic language? Are we not acquainted with the functions and duties of our Court of last resort? Do we not know that the Judges thereof are appointed for life, subject only to their good behavior? This deciding Judge says: "The power is sought, first in the Fourteenth Amendment; and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass." It is not said that arguments opposed to the passage of the act were noticed. It is not said that this Honorable Judge, long before this question of law was brought before him, had predetermined its non-constitutionality.

It is not hinted that this Republican Supreme Court had caused it to be noised abroad what their "finding"

would be if the "law" was inquired into. The Court, it is said, could see, and only see, Negroes in Kansas and Missouri intermingling with white persons, in hotels and inns; Negroes, in California and New York, associating, on equal terms, with Caucasians in theatres; and Negroes in the presence of those free from the taint of African blood, in the parlor-cars of Tennessee. These sights completely blinded the eyes of the, at other times, learned Judges, and one of their number, not too full of indignation for utterance, proclaimed aloud, these things may not be; these pictures shall not in future be produced; the law is unconstitutional; and all of the other members, save one, said, Amen! Negroes may come as servants into all of the hotels, inns, theatres and parlor-cars, but they shall never be received as equals—as are other persons. A Negro woman with a white baby in her arms may go to the table in the finest and most aristocratic hotel, and there, as servant, be permitted to associate with all present, of whatever nationality. The same woman, unaccompanied by said baby, or coming without the distinguished rank of servant, is given to understand that she cannot enter. And what is more, by the Bradley infamous decision, may be by force of arms prevented from entering. A Negro whose father is a white man, and whose mother's father was white, if marked sufficiently to tell that he is somewhat Negro, is denied admission into certain places; the same resorts, or places of entertainment being readily granted to the inky dark Negro who is accompanying an invalid white man. The gambler, cut-throat, thief, despoiler of happy homes, and the cowardly assassin, need only to have white faces in order to be accommodated with more celerity and respect than are our lawyers, doctors, teachers and humble preachers. Talk about the "Dred Scott" decision; why it was only a mole-hill in comparison with this obstructing Rocky Mountain to the freedom of citizenship. I am charged by your Pennsylvania correspondent with saying that, "By the decision of the Republican Supreme Court, colored people may be turned out of hotels, cheated, abused and insulted on steamboats and railroads, without legal redress." I am of the opinion that the reporter on your paper, who published

the above quotation as coming from me, made no mistake, unless it was that of making it more mild than I intended. When I use the term "cheated," I mean that colored persons are required to pay first-class fare and in payment therefor are given no-class treatment, or at least the kind with which no other human being, paying first-class fare, is served. Some conveyances excepted, I must say to their credit. Bohemians, Scandinavians, Greasers, Italians and Mongolians all precede Negroes. When Mr. Justice Harlan shall have retired from the bench by reason of age and infirmity, I pray him to accept, take and carry with him into his retirement, the boiled-down essence of the love of more than eight million Negroes who delight to honor an individual, whose vertebræ is strong enough to stem the tide of race prejudice. His decision dissenting, in favor of equal and exact juctice to all men, will last always, will never be forgotten as long as there is a descendant of the American Negro on the earth. I have no doubt that the feelings of Justice Harlan, when seeking rest upon his soft couch on the night of that fateful day in October, was different to the emotions present with Judge Bradley. The latter had doomed seven million human beings and their posterity to "stalls" and "nooks," denoting inferiority; the other had attempted to protect them from American barbarism and vandalism. Seven million persons, many of whom are not only related to Justice Bradley's race by affinity, but by consanguinity, cannot move the bowels of his compassion to the extent of framing or constructing even one sentence in all of that notorious decision, which fairly can be interpreted as a friendly regard for the rights of those struggling souls, who cried to God, while carrying the burden of bondage, for more than two hundred and forty years. God will some day raise up another Lincoln, another Thad. Stevens and another Chas. Sumner. In my opinion, if Jesus was on earth, he would say, when speaking of eight members of the Supreme Court, and the decision which worked such acerb and cruel wrong upon my people, "Father forgive them; they know not what they do."

Mr. Justice Harlan, in his protesting language, says many things which stand noncontrovertible and may

some day be remembered only to be thought about when it is too late. He says: "The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution, have been sacrificed by a subtle and ingenious verbal criticism." He then quotes an authority which is so old and so well established that the memory of man goeth not to the contrary, which says:

"It is not the words of the law, but the internal sense of it that makes the law; the letter of the law is the body; the sense and reason of the law is the soul." Continuing, he says: "Constitutional provisions, adopted in the interest of liberty, and for the purpose of securing, through national legislation, if need be, rights inhering in a state of freedom, and belonging to American citizenship, have been so construed as to defeat the ends the people desired to accomplish, which they attempted to accomplish, and which they thought they had accomplished by changes in their fundamental law. By this, I do not mean that the determination of these cases should have been materially controlled by considerations of mere expediency or policy. I mean only, in this form, to express an earnest conviction that the Court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted. The Court adjudges, I think, erroneously, that Congress is without power, under either the Thirteenth or Fourteenth Amendment, to establish such regulations, and that the first and second sections of the statute are, in all their parts, unconstitutional and void."

Then follows a great number of authorities maintaining his position. No sane man can read the record, law and authorities relating to these cases, without forming a conclusion that cannot be brushed away, that the bench of judges were narrow even to wicked ingeniousness, superinduced by color-phobeism. Sane men know that the gentlemen in Congress who voted for this act of 1875, understood full well the condition of our country, as did the powers amending the Constitution abolishing slavery. The intention was to entirely free, not to partly liberate.

The desire was to remove the once slave so far from his place of bondage, that he would not even remember it, if such a thing were possible. Congress stepped in and said, he shall vote, he shall serve on juries, he shall testify in court, he shall enter the professions, he shall hold offices, he shall be treated like other men, in all places the conduct of which is regulated by law, he shall in no way be reminded by partial treatment, by discrimination, that he was once a "chattel," a "thing." Certainly Congress had a right do this. The power that made the slave a man instead of a "thing" had the right to fix his status. The height of absurdity, the chief point in idiocy, the brand of total imbecility, is to say, that the Negro shall vote a privilege into existence which one citizen may enjoy for pay, to the exclusion of another, coming in the same way, but clothed in the vesture covering the earth when God first looked upon it. Are colored men to vote grants to railroads upon which they cannot receive equal accommodation? When we ask redress, we are told that the State must first pass a law prohibiting us from enjoying certain privileges and rights, and that after such laws have been passed by the State, we can apply to the United States courts to have such laws declared null and void by quo warranto proceedings. The Supreme Court, when applied to, will say to the State, you must not place such laws on your statute book. You can continue your discrimination on account of color. You can continue to place the badge of slavery on persons having more than one-eigth part of Negro blood in their veins, and so long as your State Legislatures do not license you so to do, you are safe. For if they, (the Negroes) come to us for redress, we will talk about the autonomy of the State must be held inviolate, referring them back to you for satisfaction.

Do you know of anything more degrading to our country, more damnable? The year after this decision the Republican party met with defeat, because it acquiesced by its silence in that abominable decision, nor did it lift a hand to strike down that diabolical sham of judicial monstrosity, neither in Congress nor the great National Convention which nominated Blaine and Logan. God, however, has placed them in power again, using the voters

and our manner of electing electors as instruments in his hands. God would have men do right, harm no one, and to render to every man his just due. Mr. Justice Harlan rightly says that the Thirteenth Amendment intended that the white race should have no privilege whatsoever pertaining to citizenship and freedom, that was not alike extended and to be enjoyed by those persons who, though the greater part of them were slaves, were invited by an act of Congress to aid in saving from overthrow a government which, theretofore by all of its departments, had treated them as an inferior race, with no legal rights or privileges except such as the white race might choose to grant. It is an indisputable fact that the amendment last mentioned may be exerted by legislation of a direct and primary character for the eradication, not simply of the institution of slavery, but of its badges and incidents indicating that the individual was once a slave. The Supreme Court must decide the inter-State commerce law to be unconstitutional on account of interference with the State's autonomy, for it must be remembered that Mrs. Robinson, a citizen of Mississippi, bought a ticket from Grand Junction, Tennessee, to Lynchburg, Virginia, and when praying for satisfaction for rough and contumacious treatment, received at the hands of the company's agent, she was informed by the Court, that the Court was without power to act. Congress had constitutional power to pursue a runaway slave into all the States by legislation, to punish the man that would dare to conceal the slave. Congress could find the poor fellow seeking God's best blessing to man, liberty, and return him to his master, but Congress cannot, so say our honorable Court, give aid sufficient to the poor black man, to prove beyond all doubt to him that he is as free as any other citizen. Mr. Justice Harlan says: "The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging under the law to them as a component part of the people for whose welfare government is ordained. At every step in this direction, the Nation has been confronted with class tyranny, which is of all tyrannies the most intolerable, for it is ubiquitous in its operation, and weighs perhaps most heavily on those whose ob-

scurity or distance would draw them from the notice of a single despot. To-day it is the colored race which is denied by corporations and individuals wielding public authority, rights fundamental in their freedom and citizenship. AT SOME FUTURE TIME IT MAY BE THAT SOME OTHER RACE WILL FALL UNDER THE BAN OF RACE DISCRIMINATION." This last preceding sentence sounds like prophecy from on high. Will the day come when Justice Bradley will want to hide from his decree of the 15th day of October, 1883, and say *non est factum*? I conclude with great reluctance these brief lines, assuring you that the subject is just opened and if desired by you, I will be glad to give it elaborate attention. I ask no rights and privileges for my race in this country, which I would not contend for on behalf of the white people were the conditions changed, or were I to find proscribed white men in Africa where black rules.

A word more and I am done, as you wish brevity. God may forgive this corps of unjust judges, but I never can, their very memories will also be detested by my children's children, nor am I alone in this detestation. The eight millions of my race and their posterity will stand horror-frozen at the very mention of their names. The scenes that have passed under my eyes upon the public highways, the brutal treatment of helpless women which I have witnessed, since that decision was proclaimed, is enough to move heaven to tears and raise a loud acclaim in hell over the conquest of wrong. But we will wait and pray, and look for a better day, for God still lives and the LORD OF HOSTS REIGNS.

I am, sir, yours, for the Fatherhood of God, and the Brotherhood of man.

H. M. TURNER.

Atlanta, Georgia, January 4th, 1889.

APPENDED.

OUR CIVIL RIGHTS.

The following letter, which we take from the *Christian Recorder*, the official organ of the African M. E. Church, of January 17th, 1884, is so pointed, expressive and eloquent, and such a withering indictment of the action of the National Supreme Court, that a number of us have resolved to reprint it in the present form, and send it broadcast through the land.

Bishop H. M. Turner, D. D., LL. D., has been rendering great service to his race, during his notable career for the last twenty odd years, both by his powerful pen and eloquent tongue. But this letter is evidently one of the most manly acts of his life, and places him in the front of the colored defenders of our race. If he was not the author already of a vast number of printed speeches, lectures and newspaper articles, this one alone would immortalize his name. He dares to speak for his people's rights in the face of their supreme foe, and challenges the consequences; but his appeal to the people to invoke the God of nations to reorganize the Supreme Court, deserves more than a casual notice. Let the colored people heed the advice in regard to sending up petitions to Congress for another Civil Rights Bill.

REV. G. V. VALENTINE, W. P. SLOAN,
MICK MITCHELL, E. L. SIMMONS,
R. J. HENRY, E. A. JOHNSON,
F. D. WHEELOCK.

EIGHTH EPISCOPAL DISTRICT, A. M. E. CHURCH.

MINISTERS AND MEMBERS OF THE ABOVE-NAMED DISTRICT.

The giant form of liberty bows and weeps at the shrine of injustice. Her polychromatic robes of honor have been rent and tattered by the ruthless hand of the Supreme Court of the nation. Where equity should be enthroned, robed with azure hues, tressed with glittering gems, balustered with celestial sapphires, crowned with vermillioned gold, bearing the armlets of divinity and defended by the trident of Omnific power, injustice, desecration and human vampirage now hold sway.

A terrible crisis is upon us; heaven is insulted, our civilization is disgraced! The Supreme Court of the United States has decided that the Civil Rights act is unconstitutional. To the negro in this country (excepting a few simpletons, ingrates and government pap-suckers) this decision is known to be a fearful blow, a civil shame, an inhuman outlaw, upon more than seven millions of American citizens—citizens, too, who have freely shed their blood in every battle the nation has fought for its maintenance since its incipiency.

This is not a political question. It involves existence, fundamental rights upon which hinges respect, honor, happiness and all that life is worth. Born in the bitterness of prejudice, fostered in the venom of caste, and strengthened by the dangerous stimulants of State rights, that decision hurls out fearful blows, which strike the negro through in the very armor of his citizenship. The assault, too, was unprovoked; yet such has been its force, that it will materially curtail the growth of race respect, and drive us into the thorns and briars of incessant discontent, or recognized inferiority to the most degraded of all other races, the very thought of which is revolting. That decision beggars the future hopes of the negro, destroys his confidence in his own country and makes him an alien in the land of his birth—a land which he has enriched by his labor and defended with his life. It makes his color a badge of inferiority and robs him of that manly zeal which is born of fair rivalry. This decision, too, has been made despite the plain wording of the Fourteenth Amendment to the Constitution, and the vote of the entire country in 1872, when all political parties voted for platforms providing for civil rights. The decision is not only a calamity, but it is unwarranted and was uncalled for. The negro was quietly, peaceably, industriously, hopefully and loyally enjoying his battle-won freedom, and was modestly working out his destiny. He had gained the admiration of his friends, and was fast achieving the respect of his foes. The animosities which followed a bloody war were rapidly disappearing and the flames, once fed by armed strife, were dying from our land. Upon the one hand, an antiquated pro slavery sentiment was yielding to the inevitable pressure of a better civilization, while upon the other, a patient people or race, was recovering confidence and manly courage from the good already accomplished. The white citizens were becoming satisfied and the black contented. Prosperity was a vital fact, a positive reality and peace a national benediction.

Now, in this time of profound quiet and national tranquility, the door to the Court of last resort grates upon its hinges and is slammed in the face of the most loyal citizens the country ever had. The sequence is a discrimination, proscription, degradation and a subjection to the white roughs of the country, which will not be tolerated by brave men of color, and must be attended sooner or later with direful results. This decision reverses the wheels of civilization. The lower elements of our natures are turned loose to war and collide with the higher. Manhood must yield to snubs, and ornament itself in the dirty rags of a wicked decision. Ingratitude puts the dagger to the heart of equity and justice drops her scales. Merit and loyalty are literally stripped to the taunt and jeers of rampant riot, and rowdy-fisted insult stands in the highway. The Evil one has his WILL and the members of the Supreme Court will receive the curses of millions. The nation has been transformed into a mob, with Judge Bradley as its leader, and tens of thousands of its faithful defenders have been handed over to its vengeance and fury. The sainted President Lincoln and the illustrious Sumner have been alarmed in their peaceful tombs, while the heavenly quiet of Chief Justice Chase has been broken by the distorted wails of tens of thousands whose groans have reached the skies. The father of Secession and State sovereignty is holding a banquet of rejoicing in the regions of the invisible, while fate sounds the reveille of coming dissolution, for that decision, despite the fine-spun theories of judicial jargon, will, in the near future, be made the criterion to rend this nation in twain.

Now, before the God of nations and civilized man, we hold that the action of the Supreme Court is nothing less than a public outrage, and an invitation to murder all colored persons who possess the elements of true manhood—a decision far more abominable and more at variance with the true status of affairs than the Dred Scott decision, and as such should be singled out before heaven and earth.

Therefore, believing it to be my duty as a consecrated officer of the Church of God, who has been placed in the most elevated position in the gift of the Church, to advise the people of my care in times of trouble and lamentation, and having been moved upon to do the same, I trust, by the Spirit of God, I recommend,

1st. That our condition be made the subject of prayer and great meditation, that we may be able to learn what lesson Providence designs to teach us, if any.

2nd. That the God of all mercies be invoked, upon bended knees, to reorganize the Supreme Court, and that the same be made a subject of fasting and prayer.

3rd. That, in the meantime, meetings be called by the thousands, and petitions be made to Congress for the passage of another bill which will give us protection before the country, as well as a recognized status in the land.

4th. That grateful mention be made before God and man of Justice Harlan, President Arthur, Senators Edmunds and Wilson, and such other friends of humanity as are trying to aid us in this, our dark hour and fearful trial.

Most respectfully.

H. M. TURNER, BISHOP.

Atlanta, Ga., January 12, 1884.