

a rule amounts to discrimination against colored persons, and that such ~~prohibition~~ discrimination is prohibited by the Fourteenth Amendment of the Constitution of the United States. The clauses of that amendment relied upon by the plaintiff are those whereby it is declared that "no state shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States" x x x; nor deny to any person within its jurisdiction the equal protection of the laws". These clauses do not undertake to confer new rights, nor do they undertake to regulate individual rights. They are simply prohibitory of state legislation and of state action. All this was held and ruled in the Civil Rights Cases 109 U. S. 3. As there stated "individual invasion of individual rights is not the subject matter of the amendment." This state has enacted no law having any application to the present case. It does not undertake to say how theatres and other places of amusement shall be managed. As the state does not by itself or through the City of Kansas undertake to regulate theatres, and as the clauses of the 14th amendment before noted are prohibitory of state action only, they have nothing to do with the question in hand. There is nothing upon which the prohibitions can operate.

Many of the states have enacted laws known as civil rights statutes, and we are cited to cases upholding and giving effect to such laws. Under them it has been held that the proprietor of a theatre will be liable in damages for a refusal to admit a colored person, Joseph v Bidwell 28 La. Ann. 382; Donnell v State 48 Miss. 661; and for a refusal to admit a colored person to the several

circles or grades of seats in a theatre, Baylies v Curry 120 Ill.
287; and for refusing a colored person admission to a skating
rink, People v King 110 N. Y. 418; and for drawing any line of
distinction between a white and black man at a restaurant, Ferguson

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