

**Excerpt from the U.S. Supreme Court Decision in
*Morgan v. Commonwealth of Virginia***

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This statute is attacked on the ground that it imposes undue burdens on interstate commerce. It is said by the Court of Appeals to have been passed in the exercise of the state's police power to avoid friction between the races. But this Court pointed out years ago "that a State cannot avoid the operation of this rule by simply invoking the convenient apologetics of the police power." Burdens upon commerce are those actions of a state which directly "impair the usefulness of its facilities for such traffic." That impairment, we think, may arise from other causes than costs or long delays. A burden may arise from a state statute which requires interstate passengers to order their movements on the vehicle in accordance with local, rather than national, requirements.

On appellant's journey, this statute required that she sit in designated seats in Virginia. Changes in seat designation might be made "at any time" during the journey when "necessary or proper for the comfort and convenience of passengers." This occurred in this instance. Upon such change of designation, the statute authorizes the operator of the vehicle to require, as he did here, "any passenger to change his or her seat as it may be necessary or proper." An interstate passenger must, if necessary, repeatedly shift seats while moving in Virginia to meet the seating requirements of the changing passenger group. On arrival at the District of Columbia line, the appellant would have had freedom to occupy any available seat, and so to the end of her journey.

Interstate passengers traveling via motor buses between the north and south or the east and west may pass through Virginia on through lines in the day or in the night. The large buses approach the comfort of pullmans, and have seats convenient for rest. On such interstate journeys the enforcement of the requirements for reseating would be disturbing.

Appellant's argument, properly we think, includes facts bearing on interstate motor transportation beyond those immediately involved in this journey under the Virginia statutory regulations. To appraise the weight of the burden of the Virginia statute on interstate commerce, related statutes of other states are important to show whether there are cumulative effects which may make local regulation impracticable. Eighteen states, it appears, prohibit racial separation on public carriers. Ten require separation on motor carriers. Of these, Alabama applies specifically to interstate passengers with an exception for interstate passengers with through tickets from states without laws on separation of passengers. The language of the other acts, like this Virginia statute before the Court of Appeals' decision in this case, may be said to be susceptible to an interpretation that they do or do not apply to interstate passengers.

In states where separation of races is required in motor vehicles, a method of identification as white or colored must be employed. This may be done by definition. Any ascertainable Negro blood identifies a person as colored for purposes of separation in some states. In the other states which require the separation of the races in motor carriers, apparently no definition generally

applicable or made for the purposes of the statute is given. Court definition or further legislative enactments would be required to clarify the line between the races. Obviously there may be changes by legislation in the definition.

The interferences to interstate commerce which arise from state regulation of racial association on interstate vehicles has long been recognized. Such regulation hampers freedom of choice in selecting accommodations. The recent changes in transportation brought about by the coming of automobiles does not seem of great significance in the problem. People of all races travel today more extensively than in 1878, when this Court first passed upon state regulation of racial segregation in commerce. The factual situation set out in preceding paragraphs emphasizes the soundness of this Court's early conclusion in *Hall v. DeCuir*, 95 U.S. 485.

The *DeCuir* case arose under a statute of Louisiana interpreted by the courts of that state and this Court to require public carriers 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.

Damages were awarded against Hall, the representative of the operator of a Mississippi river steamboat that traversed that river interstate from New Orleans to Vicksburg, for excluding in Louisiana the defendant in error, a colored person, from a cabin reserved for whites. This Court reversed for reasons well stated in the words of Mr. Chief Justice Waite. As our previous discussion demonstrates, the transportation difficulties arising from a statute that requires commingling of the races, as in the *DeCuir* case, are increased by one that requires separation, as here. Other federal courts have looked upon racial separation statutes as applied to interstate passengers as burdens upon commerce.

In weighing the factors that enter into our conclusion as to whether this statute so burdens interstate commerce or so infringes the requirements of national uniformity as to be invalid, we are mindful of the fact that conditions vary between northern or western states such as Maine or Montana, with practically no colored population; industrial states such as Illinois, Ohio, New Jersey and Pennsylvania with a small, although appreciable, percentage of colored citizens, and the states of the deep south, with percentages of from twenty-five to nearly fifty percent colored, all with varying densities of the white and colored races in certain localities. Local efforts to promote amicable relations in difficult areas by legislative segregation in interstate transportation emerge from the latter racial distribution. As no state law can reach beyond its own border nor bar transportation of passengers across its boundaries, diverse seating requirements for the races in interstate journeys result. As there is no federal act dealing with the separation of races in interstate transportation, we must decide the validity of this Virginia statute on the challenge that it interferes with commerce, as a matter of balance between the exercise of the local police power and the need for national uniformity in the regulations for interstate travel. It seems clear to us that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel. Consequently, we hold the Virginia statute in controversy invalid.