

116TH CONGRESS
1ST SESSION

H. RES. 694

Recognizing the importance of the Civil Rights Act of 1866 and the laws
derived therefrom.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2019

Ms. WATERS (for herself, Mr. THOMPSON of Mississippi, Mr. CARSON of Indiana, Ms. LEE of California, Mr. DANNY K. DAVIS of Illinois, Mr. GREEN of Texas, Ms. BASS, Ms. CLARKE of New York, Ms. JACKSON LEE, Mr. MEEKS, Mr. RUSH, Mr. CLAY, Ms. NORTON, Ms. MOORE, Mrs. WATSON COLEMAN, Mr. EVANS, Mr. LEWIS, Ms. PRESSLEY, Ms. PLASKETT, Mrs. BEATTY, and Ms. FUDGE) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Recognizing the importance of the Civil Rights Act of 1866
and the laws derived therefrom.

Whereas, in the aftermath of the Civil War, the reunified United States of America struggled to reconstruct its war-torn States or establish laws granting newly freed slaves the same rights afforded to White citizens;

Whereas the reconstruction of the United States following the conclusion of the Civil War necessarily included the integration of newly emancipated African Americans into broader society, and with it, their receipt of civil and legal protections;

Whereas, as a response to the uncertain and unequal status of newly freed slaves, the 13th Amendment to the Constitution was ratified by the States on December 6, 1865, formally abolishing slavery “within the United States, or any place subject to their jurisdiction”;

Whereas, on April 9, 1866, Congress overrode a Presidential veto to enact the Civil Rights Act of 1866, a law written to protect and clarify the newly bestowed rights of persons of African descent;

Whereas the Civil Rights Act of 1866 declared that all persons born in the United States are entitled to be citizens, without regard to race, color, or previous condition of slavery or involuntary servitude;

Whereas the Civil Rights Act of 1866 was enacted to accomplish three primary objectives: to establish that all persons born in the United States were to be considered citizens, to clearly define the rights guaranteed by American citizenship, and to make it unlawful for any person to deprive another of these rights on the basis of race;

Whereas the Civil Rights Act of 1866 served the role of overriding “Black Codes”, laws enacted in southern States to restrict African Americans’ freedom and keep formerly enslaved persons from thriving in society;

Whereas section 1 of the Civil Rights Act of 1866 created an avenue for citizens who fell victim to intentional racial discrimination by allowing them go before a Federal court and allege that he or she was discriminated against while engaging in lawful activity;

Whereas section 1 of the Civil Rights Act of 1866 was used to challenge the laws established by southern States to limit the rights and opportunities of newly freed slaves;

Whereas under section 1977 of the Revised Statutes (42 U.S.C. 1981), as derived from section 16 of the Enforcement Act of 1870 (16 Stat. 140) and section 1 of the Civil Rights Act of 1866 (14 Stat. 27), African American citizens are given the right to enforce contracts, give evidence in court, sue and be sued, and purchase, sell, and convey real and personal property;

Whereas, in 1975, the Supreme Court found in *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454 (1975), that section 16 of the Enforcement Act of 1870 (16 Stat. 140) allowed for private employers to be held accountable for discrimination within their ranks;

Whereas section 1977 of the Revised Statutes (42 U.S.C. 1981) applies to all contracts, including those between employer and employee, and has become a vital tool for employment discrimination claimants;

Whereas section 1977 of the Revised Statutes (42 U.S.C. 1981) stands as one of the only laws protecting against employers openly discriminating on the basis of race when contracting with other parties;

Whereas it is well established that section 1977 of the Revised Statutes (42 U.S.C. 1981) has been invoked to challenge race discrimination in employment matters and has held bad actors accountable for contract discrimination;

Whereas, in 1989, the Supreme Court narrowly interpreted section 1977 of the Revised Statutes (42 U.S.C. 1981) to only apply to contract formation in *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989), finding that only certain points in a contractual engagement could be subject to the protections afforded in such section;

Whereas the ruling in *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989) functioned as a major setback in ensuring that all aspects of an employee or individual's interaction with a business would be free of racial discrimination;

Whereas, in 1991, Congress disagreed with a plethora of Supreme Court decisions that undermined Federal anti-discrimination laws and challenged the Court's restrictive interpretation of section 1977 of the Revised Statutes (42 U.S.C. 1981) in *Patterson* by statute, as part of the Civil Rights Act of 1991;

Whereas the 2008 decision in *CBOCS West, Inc. v. Humphries*, 553 U.S. 442 (2008), further determined that section 1977 of the Revised Statutes (42 U.S.C. 1981) prohibits not only direct discrimination, but retaliation of those alleging discrimination, as well;

Whereas Congress' intent is clear through the legislative history of section 1977 of the Revised Statutes (42 U.S.C. 1981), which definitively illustrates the law was meant to provide and enforce robust protection against race discrimination in contracting;

Whereas section 1977 of the Revised Statutes (42 U.S.C. 1981) provides that "[a]ll persons within the jurisdiction of the United States shall have the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens." and the statute defines "make and enforce contracts" to "include the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.";

Whereas section 1977 of the Revised Statutes (42 U.S.C. 1981) clearly enumerates the protections afforded to minorities in the United States when contracting with businesses and makes clear that all aspects of the creation, modification, and termination of contracts are subject to the scrutiny of such section;

Whereas the most direct interpretation of section 1977 of the Revised Statutes (42 U.S.C. 1981) ensures that all racial minorities in the United States be granted the opportunity to enter into contractual agreements free of discrimination; and

Whereas section 1977 of the Revised Statutes (42 U.S.C. 1981) serves as a critically important tool to ensure no person is denied the ability to contract with another on the basis of race: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) recognizes and honors the historical signifi-
3 cance of section 1977 of the Revised Statutes (42
4 U.S.C. 1981), and its instrumental contributions to
5 our Nation's pursuit of equal protection for all
6 Americans;

7 (2) reaffirms its commitment to the 13th, 14th,
8 and 15th amendments, to the Civil Rights Act of
9 1866 (and the laws derived therefrom), and to the
10 civil rights and liberties of all racial minorities
11 across the country; and

12 (3) reaffirms the congressional intent behind
13 section 1 of the Civil Rights Act of 1866 (and the

1 laws derived therefrom), which was, and remains
2 today, the protection of the rights of minorities seek-
3 ing refuge from racial discrimination in business.

