

BURKHARD

14th Amendment Case Study: Plessy v. Ferguson

PART ONE: CASE BRIEF- In 1890, Louisiana passed a law called the Separate Car Act, which stated *"that all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations. . . ."* The penalty for sitting in the wrong compartment was a fine of \$25 or 20 days in jail.

The Plessy case was carefully orchestrated by both the Citizens' Committee to Test the Constitutionality of the Separate Car Act, a group of blacks who raised \$3000 to challenge the Act, and the East Louisiana Railroad Company, which sought to terminate the Act largely for monetary reasons. They chose a 30-year-old shoemaker named Homer Plessy, a citizen of the United States who was one-eighth black and a resident of the state of Louisiana. On June 7, 1892, Plessy purchased a first-class passage from New Orleans to Covington, Louisiana and sat in the railroad car designated for whites only. The railroad officials, following through on the arrangement, arrested Plessy and charged him with violating the Separate Car Act. Well known advocate for black rights Albion Tourgee, a white lawyer, agreed to argue the case without compensation.

In the criminal district court for the parish of Orleans, Plessy argued that the Separate Car Act violated the Fourteenth Amendments to the Constitution.

Fourteenth Amendment: *Section 1. 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 deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

John Howard Ferguson was the judge presiding over Plessy's criminal case in the district court. He had previously declared the Separate Car Act "unconstitutional on trains that traveled through several states." However, in Plessy's case he decided that the state could choose to regulate railroad companies that operated solely within the state of Louisiana. Therefore, Ferguson found Plessy guilty and declared the Separate Car Act constitutional.

Plessy appealed the case to the Louisiana State Supreme Court, which affirmed the decision that the Louisiana law was constitutional. Plessy petitioned for a writ of error from the Supreme Court of the United States. Judge John Howard Ferguson was named in the case brought

before the United States Supreme Court (*Plessy v. Ferguson*) because he had been named in the petition to the Louisiana Supreme Court and not because he was a party to the initial lawsuit.

QUESTIONS TO CONSIDER

- 1. Specifically, what law did Homer Plessy violate? How and why did Plessy violate this law?**
- 2. What rights does the Fourteenth Amendment to the Constitution provide that Mr. Plessy assumed would protect him from discrimination?**
- 3. If you were Plessy's lawyer, how would you justify your claim that the "Separate Car Act" violates the Fourteenth amendment?**
- 4. Is it possible for two races to remain "separated" while one race is striving for equality? Are separation and equality compatible? Why or why not?**

PART TWO: SUMMARY OF THE SUPREME COURT'S DECISION:

In a 7-1 decision, the Supreme Court ruled in favor of Ferguson. The majority rejected Plessy's Fourteenth Amendment arguments, instead putting its stamp of approval on the doctrine of "separate but equal." The dissent, written by Justice John Marshall Harlan, disagreed, arguing that segregationist laws indoctrinate society with the belief that the two races are not equal.

Justice Henry Brown wrote the majority opinion and considered whether the law conflicted with the Fourteenth Amendment. He identified the purpose of the Fourteenth Amendment as "enforce[ing] the absolute equality of the two races before the law," but then asserted that "it could not have been intended to abolish distinctions based upon color, or to enforce social...equality." According to the Court, the Fourteenth Amendment was only concerned with legal, not social, equality.

In addition, the justices denied the argument that separation of the races by law "stamps the colored race with a badge of inferiority." They argued instead that racial prejudice could not be

overcome by “an enforced commingling of the two races.” According to this argument, outlawing segregation would not eliminate racial prejudice, because such societal beliefs could not be changed simply by changing the law. The Court concluded that “if one race be inferior to the other socially, the Constitution ... cannot put them upon the same plane.”

The justices explained that because the Louisiana law did not conflict with the purpose of the Fourteenth Amendment, the only remaining question was whether it was “reasonable, and ... enacted in good faith for the promotion for the public good.” Giving much deference to the state legislature of Louisiana, they determined that the law met this requirement because it furthered “the preservation of the public peace and good order.” Thus, so long as separate facilities were actually qualitatively equal, the Constitution did not prohibit segregation in the view of the majority of the Court.

Justice John Marshall Harlan dissented from the majority opinion. In an opinion that later became pivotal in the *Brown v. Board of Education* cases (1954), he argued that segregationist legislation, like the Louisiana law in this case, was based on the assumption that “colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens.” These laws promoted and perpetuated the belief that African Americans were inferior to whites, according to Justice Harlan. They must be struck down, he argued, because the government could not “permit the seeds of race hate to be planted under the sanction of law.” Justice Harlan believed that the constitution must be “color-blind,” and that it could allow “no superior, dominant ruling class of citizens.” Because segregation had the effect of creating such classes, he judged, it was unconstitutional.

QUESTIONS TO CONSIDER

- 1. What do the majority justices state is the object of the Fourteenth Amendment?**
- 2. The *Plessy* decision distinguishes between legal and social equality. Consider this distinction. What do you think this means, in your own words?**
- 3. The decision states that legislation cannot overcome social prejudice (in other words- laws cannot be passed that make people accept persons of other races). Do you agree? Can laws sometimes make prejudice worse? Why or why not?**

4. According to Justice Harlan in the dissenting opinion, what was the main assumption regarding black people in this case?
5. What does Justice Harlan believe must happen with cases such as Plessy?

PART THREE: THE IMPACT OF THE CASE: "SEPARATE BUT EQUAL"

Although not specifically written in the decision, Plessy set the precedent that "separate" facilities for blacks and whites were constitutional as long as they were "equal." The "separate but equal" doctrine was quickly extended to cover many areas of public life, such as restaurants, theaters, restrooms, and public schools.

The Supreme Court of the United States determined that if legislation makes distinctions based on race, but does not deprive anyone of rights or privileges, it is constitutional. The Court seemed to believe that the common practice of separation was an inconvenience, not something that denied the rights of African Americans. The Court also presumed that legislation was powerless to do away with racial instincts or to abolish distinctions based on physical differences.

QUESTIONS TO CONSIDER: Please give me a short comment for each of the following regarding the equality of the situation:

1. Consider the following situations. Each situation offers separate accommodations for the people involved. As you read, analyze whether or not those accommodations are equal. Please give me a short comment for each of the following regarding the equality of the situation:
 - A black man has been traveling for many hours. He stops at a diner to eat and use the restroom. This diner only serves whites. In order to eat, the

black man must travel another two hours to another diner that serves blacks. The black man cannot wait two hours to use the restroom, so he uses the diner's restroom despite the posted signs.

- **A black seven-year-old girl must walk two miles to the nearest school for blacks even though there is a school two blocks away. The school two blocks away is only for white students. The girl's parents worry about their daughter walking such a long distance to and from school everyday.**
 - **A black school has outdated textbooks, no art or music programs, and no heating. The white school across town has new books, science labs, and field trips. Both schools claim to offer "equal education." Are they truly equal? Why or why not?**
- 2. The Plessy v. Ferguson Case ushers in a new era of what come to be known as "Jim Crow Laws," use your resources to describe what are "Jim Crow Laws." Why are they named "Jim Crow Laws?"**
- 3. What was the impact of Jim Crow Laws on African American communities and society as a whole?**