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Plessy v. Ferguson Court Sets a Precedent for 'Separate but Equal' Accommodations

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The issue: In 1892, Homer Plessy, who was one-eighth black, was arrested for violating Louisiana's Separate Car Act, which required whites and blacks to sit in separate railroad cars. Plessy's lawyers claimed that the case against him should be dismissed because the law violated the 13th and 14th Amendments. The case came before the U.S. Supreme Court in 1896. Was the Separate Car Act unconstitutional? Or was it a reasonable use of Louisiana's police powers?

- *Arguments against the Separate Car Act:* The act discriminates based on race and essentially creates a condition of involuntary servitude, in violation of the 13th Amendment. The act also violates the 14th Amendment. Although the law requires the separate accommodations for black and whites to be of equal quality, that alone does not make it constitutional; the very act of requiring separate accommodations based on race is discriminatory. Also, because the act prohibits passengers from bringing legal action against the conductor or railroads, it violates the 14th Amendment guarantee that people cannot be deprived of their liberty or property without "due process of law."
- *Arguments in favor of the Separate Car Act:* The act does not violate the 13th Amendment; that amendment was created to end slavery and forced servitude, and courts in the past have recognized that separate accommodations do not amount to either. Also, since the act applies equally to blacks and to whites, and requires equal accommodations for both, it is not discriminatory and does not violate the 14th Amendment. The Separate Car Act is a reasonable and justified exercise of Louisiana's 1/2s police power--granted through the 10th Amendment to the Constitution--to ensure security and social order.



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The *Illustrated London News* depicts a black man being expelled from a railroad car.

Introduction

In 1954, the Supreme Court struck down racial segregation in *Brown v. Board of Education*, ruling that separate schools for black and white students were unconstitutional. The ruling changed the social landscape of the South, where segregation had long been a way of life. With *Brown*, the court overturned a decades-old guiding principle that "separate" accommodations were acceptable as long as the facilities were "equal." The Supreme Court itself had set that precedent of "separate but equal" nearly 60 years earlier, in the case *Plessy v. Ferguson* (1896). [See *Brown v. Board of Education*]

The late 19th century was marked by a steady rollback of rights for African Americans, reversing gains that had been made in the aftermath of the Civil War (1861-65) during the period of Reconstruction. Under Reconstruction, several measures were passed to ensure greater civil rights for African Americans. Those included the Civil Rights Acts of 1866 and 1875 and the so-called Civil War Amendments: the 13th Amendment, which outlawed slavery; the 14th Amendment, which protected African Americans' rights; and the 15th Amendment, guaranteeing African Americans the right to vote. [See Civil War: Reconstruction]

However, while Congress was trying to secure greater rights for blacks, the Southern states were seeking to restrict their rights. After the slaves were freed, Southern states passed Black Codes, which denied African

Americans their rights and took away their economic liberty, essentially binding them to plantations as a cheap source of labor. Violence and intimidation aimed at blacks was also common, spearheaded by groups such as the Ku Klux Klan, a white supremacist group formed in late 1865. The drive to restrict black rights gained momentum in the South in 1877, when newly inaugurated President Rutherford B. Hayes (R, 1877-81) withdrew the last federal troops from the South, officially ending Reconstruction. Segregation became common in Southern schools, and in the late 1880s and the 1890s, it also became common in other areas of society, including public transportation

Against that backdrop, in 1890, Louisiana passed the "Separate Car Act," requiring blacks and whites to ride in separate railroad cars, although the law specified that the accommodations for each race had to be equal. In 1892, Homer Plessy, a mixed-race resident of New Orleans, Louisiana, challenged that act. He sat in a car designated for whites, and refused to change cars when a train conductor ordered him to do so. Plessy was arrested, and charged with violating the Separate Car Act.

Plessy's defense team argued that the act violated the 13th and 14th Amendments, and sought to have the case dismissed. However, Orleans Parish criminal district court and the Louisiana Supreme Court disagreed with Plessy. The courts held that since the law guaranteed that the separate accommodations had to be "equal," it did not violate African Americans' constitutional rights. The law was therefore reasonable within the scope of Louisiana's power to pass laws to ensure public order, the courts declared. Plessy then appealed his case to the U.S. Supreme Court. Was the Separate Car Act constitutional? Or did requiring separate accommodations for the races amount to discrimination?

Critics of the Separate Car Act claimed that it legalized a caste system based on race and essentially created a condition of involuntary servitude, in violation of the 13th Amendment. In denying Plessy's rights based solely on the color of his skin, the act also violated the 14th Amendment, they argued. It did not matter if the accommodations for blacks were equal in quality to those for whites, they asserted; the very act of requiring separate accommodations was discriminatory.

The law was also an unconstitutional taking of property, critics argued. They pointed out that the act prohibited passengers from bringing legal action against train conductors or railroads, which they claimed was a violation of the right to "due process under the law" guaranteed by the 14th Amendment, they maintained. In not allowing Plessy to ride in the car he wanted, they argued, the state deprived Plessy of both his liberty and his property. It also undermined Plessy's reputation of belonging to the white race, which the defense claimed was valuable property at a time when blacks were widely considered inferior.

Supporters of the Separate Car Act denied that it violated either the 13th or the 14th Amendments. The 13th Amendment was created to end slavery and forced servitude, and courts in the past had recognized that separate accommodations did not amount to either, supporters contended. Furthermore, they argued, the law would violate the 14th Amendment only if it allowed the separate accommodations to be of unequal quality; but since the law declared that the accommodations had to be equal, it was constitutional. They also pointed out that the Separate Car Act applied equally to blacks and whites; a white person who attempted to sit in a car designated for blacks would suffer the same fate as Plessy. Therefore, they said, there was no inequality under the act.

Proponents also asserted that the Separate Car Act was a reasonable and justified use of the state's police power, granted under the 10th Amendment to the Constitution, which reserved all powers not enumerated in the Constitution to the states. (Since the Constitution did not specifically grant police powers to the federal government, they were reserved for the states.) The Separate Car Act was intended to ensure security and social order, proponents contended, which was a legitimate use of the state's police powers.

From Reconstruction to Segregation

The history of African Americans in the South in the 19th century is tied to the history of slavery. The slave population in the U.S. grew exponentially in the 19th century, leaping from roughly 700,000 slaves in 1790 to four million at the start of the Civil War. Slaves were the property of their owners and, as such, had few rights. In 1857, the Supreme Court cemented their second-class status in its Dred Scott decision, in which the court declared that blacks could never be citizens of the U.S. Therefore, they were not entitled to the legal protections

that U.S. citizens enjoyed. [See [Dred Scott Decision](#)]

Slavery became vital to the agricultural South as its plantation system expanded. The North, on the other hand, was more industrial and did not rely on slave labor, and many Northern states abolished slavery. In fact, many Northerners called for the abolition of slavery throughout the U.S., a call that the South strongly resisted. The disagreement over slavery increased tension between the North and South. That tension boiled over in late 1860 and early 1861, when seven Southern states seceded from the Union and formed the Confederate States of America. In April 1861, the first shots of the Civil War were fired at Fort Sumter, in South Carolina, heralding the beginning of what would be a bloody four-year conflict. [See [Civil War: Secession of the Southern States](#)]

The war ended with a Northern victory in 1865, and one of the first things the Union did was abolish slavery. On December 6, the 13th Amendment was ratified. It declared, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." With slavery brought to an end, Congress then turned to the task of how to reintegrate the South into the Union through the process of Reconstruction.

Northerners and Southerners disagreed vehemently on the direction Reconstruction should take. Radical Republicans in Congress had a vision of Reconstruction that would punish the South for its role in starting the war, and would also ensure a wide range of civil rights for African Americans. However, others advocated a more moderate course that would treat the South more leniently and would not seek full civil rights for blacks. In the end, the Republicans, who had gained a majority in Congress in the 1866 elections, were largely successful in advancing their agenda.

In 1866, Republicans secured the passage of the Civil Rights Bill, which sought to protect African Americans from the Black Codes. The bill declared that all persons born in the U.S. were now citizens, and that persons "of every race and color" were entitled to the same rights. To help ensure the enforcement of the Civil Rights Bill, Congress approved the 14th Amendment and made it incumbent upon states wishing to rejoin the Union to ratify the amendment. The ratification process was completed on July 9, 1868. Among other provisions, it declared:

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.

In 1870, blacks were granted the right to vote with the ratification of the 15th Amendment. Five years later, Congress passed the Civil Rights Act of 1875, ending discrimination in public places. That act guaranteed, "That all persons shall be entitled to full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of amusement." [See [Civil Rights Act of 1875 \(primary document\)](#)]

With many of its goals achieved, the North began removing federal troops from the South. In 1877, Hayes withdrew the remaining troops from the South, officially bringing Reconstruction to an end. However, left to their own devices, the Southern states began to reestablish segregation. For instance, by 1878, all Southern States had passed laws mandating school segregation. Between 1877 and 1884, 11 Southern states banned interracial marriage.

The segregation of the South increased after the Supreme Court overturned most provisions of the Civil Rights Act of 1875 in a ruling on October 15, 1883. In the case, referred to as the *Civil Rights Cases* (since five separate challenges to the Civil Rights Act were combined), the court ruled that the 14th Amendment protected citizens from discrimination by the government, not by private businesses or individuals. It also ruled that segregated accommodations did not amount to forced servitude. Signaling its belief that it was time to end the special protection of African Americans, the court in its majority opinion declared that, for the freed slave, there must come a time "when he takes the rank of a mere citizen and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected." [See [Civil Rights Cases: Dissenting Opinion \(Excerpts\) \(primary document\)](#)]

By 1890, segregation had become entrenched in all Southern states. However, segregation had not yet officially been sanctioned by the Supreme Court. That would change in 1896, with the court's ruling in *Plessy v. Ferguson*.

Homer Plessy Challenges Segregated Railroads

Like the rest of the South, Louisiana had resisted the expansion of civil rights for African Americans. In 1865, it established a Black Code that essentially made the freed blacks underpaid laborers on plantations rather than slaves. However, in 1868, Louisiana voters approved a new constitution that guaranteed African Americans greater rights than elsewhere in the South. Among other provisions, it repealed Louisiana's Black Code, guaranteed blacks the right to vote and equal access to public accommodations, and integrated public schools (although only the city of New Orleans complied with that measure). [See Louisiana's Black Code (primary document)]

However, as in the rest of the South, the end of Reconstruction and the 1883 *Civil Rights Cases* ruling resulted in an increase in segregation in Louisiana. On July 10, 1890, Louisiana Governor Francis Nicholls (D) signed the Separate Car Act, which segregated the state's railroad cars. (Florida had become the first state to pass such a law, in 1887. By 1892, eight other states, including Louisiana, had approved similar laws.) Louisiana's statute mandated that "all railway companies carrying passengers in their coaches in this State, shall provide equal but separate accommodations for the white, and colored races." The only exception to the law was for nannies traveling with young charges of a different race. Violators faced a \$25 fine or a maximum 20-day jail sentence. Railroads that did not cooperate were fined from \$100 to \$500. [See Louisiana's Separate Car Act (primary document)]

A group of prominent black men in New Orleans, where the races had mixed more easily than in the rest of the state, decided to challenge the law. On September 1, 1891, they formed the Citizen's Committee to test the constitutionality of the Separate Car Law. The group hired Albion Tourgee—a white judge from the North who, as a prominent advocate of black equality, had traveled to the South to take part in Reconstruction—and local lawyer James Walker. They devised a plan in which a black man would take a seat in a car designated for whites and refuse to switch cars. In order for the test case to succeed, the group had to ensure that the passenger would be arrested so that he could go to trial and challenge the law in court.

The Citizen's Committee first had to find a railroad to cooperate, to ensure that the conductor on the train would order the test passenger to switch cars. However, the group had difficulty finding such a railroad. The railroads did not like the act because it was expensive and inconvenient for them to comply with it; even lines that few blacks traveled on had to provide a separate car or curtained-off section for blacks, often leading to overcrowded white cars and cars with just a handful of black people in them. After approaching several railroads, the group finally secured the cooperation of the Louisville and Nashville Railroad. The committee also hired a private detective to be there to arrest the passenger when he would not move.

The committee enlisted the help of Daniel Desdunes, a light-skinned man who was one-eighth black (with one black great-grandparent), to ride the train. On February 24, 1892, Desdunes boarded a train traveling between Louisiana and Alabama and sat in a car designated for white passengers. After refusing the conductor's order to switch cars, he was arrested and charged with violating the Separate Car Act. Tourgee and Walker claimed that the Louisiana law usurped the federal government's authority to regulate interstate travel (travel between states), granted by the Interstate Commerce Act. They also claimed that the act violated the 13th and 14th Amendments.

However, while Desdunes's case was under way, the Louisiana Supreme Court was considering a separate case against the Separate Car Act. That case was argued on the same interstate commerce grounds as Desdunes's case. The state supreme court ruled that the act did in fact violate the government's authority over interstate commerce. In light of that ruling, Judge John Ferguson dismissed the case against Desdunes. However, the dismissal was viewed as only a partial victory, since the court did not fully consider the constitutionality of the law with regard to the 13th and 14th Amendments.

In a second test case, the Citizen's Committee specifically challenged the law with regard to intrastate travel (travel within a single state). The group turned to another light-skinned man who was one-eighth black:

Plessy. As in the first test case, the committee had to find a railroad willing to cooperate; this time it was the East Louisiana Railroad, which only operated in Louisiana. On June 7, 1892, Plessy boarded the train and sat in a car designated for whites. He was ordered to move to the car for colored people, and after he refused he was arrested by a detective hired by the Citizen's Committee.

Plessy's lawyers argued that the case should be dismissed because the law was unconstitutional. They also claimed that because Plessy was seven-eighths white, he deserved the same rights as whites. However, Judge Ferguson upheld the constitutionality of the law in his ruling in *State of Louisiana v. Plessy* on November 18, 1892. Four days later, Plessy's lawyers appealed their case to the Louisiana Supreme Court. They sought a writ of prohibition to block the prosecution of Plessy on the grounds that the law violated the 13th and 14th Amendments. In the case, *Ex parte Plessy*, the court upheld the constitutionality of the law on December 19, 1892.

The following month, Plessy's lawyers appealed their case to the U.S. Supreme Court. However, the makeup of the Supreme Court at that time made the prospects for success appear dim. In a letter to a friend in October 1893, Tourgee wrote: "Of the whole number of Justices there is but one who is known to favor the view we must stand upon. One is inclined to be with us legally but his political bias is strong the other way. There are two who may be brought over by the argument. There are five who are against us." In light of the odds, he recommended delaying the case in the hope that the make-up of the court would change to their advantage over time.



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Henry Billings Brown

After a lengthy delay, the case came before the Supreme Court in April 1896. Tourgee and Walker were joined by Samuel Phillips, who had participated in the *Civil Rights Cases*. The state was represented by Louisiana Attorney General Milton Cunningham and lawyers Lionel Adams and Alexander Porter Morse. Less than a month later, on May 18, the court returned its verdict.

In a 7-1 ruling, the court upheld the constitutionality of the law. (Justice David Brewer, who had not been present for the oral arguments, did not participate in the decision.) The court held that requiring separate accommodations in itself was not discrimination as long as those accommodations were equal. "We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority," Justice Henry Billings Brown wrote in the majority opinion. "If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it." [See [Plessy v. Ferguson Decision](#) (primary document)]

John Marshall Harlan was the sole dissenter. In his dissent, he asserted that the act of separating the races constituted discrimination. The Separate Car Act "is inconsistent not only with that equality of rights which pertains to citizenship, national and state, but with the personal liberty enjoyed by every one within the United States," he wrote. He continued, "Every one knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people from coaches occupied by or assigned to white persons." [See *Plessy v. Ferguson: Dissenting Opinion* (primary document), John Marshall Harlan: From Slave-Owner to *Plessy* Dissenter (sidebar)]

The Case Against the Separate Car Act

Critics of the Separate Car Act argued that it amounted to discrimination based on race, which perpetuated involuntary servitude. The act therefore violated the 13th Amendment, they asserted. In a brief to the Supreme Court on Plessy's behalf, Walker claimed that the Separate Car Act resulted in a "legalization of caste," and stated that slavery "was the very essence of caste." The fact that colored nannies were allowed to ride in white cars showed that the act had no purpose other than to advance the servitude of the black race, critics said.

The law also violated the 14th Amendment, intended to end discrimination against blacks and ensure that they were granted equal legal protection, opponents asserted. The law had nothing to do with any crime, they claimed; it was purely aimed at a people for being of a particular race, which was discriminatory. "No statute can be constitutional which requires a citizen of the United States to undergo policing founded upon Color. a policing, that is, which reminds him that by law (?) he is of either a superior or an inferior class of citizens," Phillips and his law partner, F.D. McKenney, wrote in a brief submitted to the Supreme Court.

The fact that the law required the separate accommodations to be equal did not make it constitutional, critics asserted. What was important was not the physical condition of the accommodations, they said, but the discrimination involved. By their very nature, they argued, separate accommodations could not be equal. "The White man's *wooden* railway benches, if the case were such, would be preferred to any *velvet cushions* in the Colored car," Phillips and McKenney declared.

In addition to being discriminatory, opponents said, the law also deprived Plessy of due process, which was guaranteed by the 14th Amendment. Critics pointed out that under the act, a person ordered to switch cars could not take legal action against a railroad or conductor, which was a violation of due process. Furthermore, they complained that the act gave the conductor the sole authority to determine the race of each passenger. That was a near-impossible task, they said, considering that there were many people of mixed race, and that there was no legal definition of "colored."

In Plessy's case, his lawyers argued that Plessy had been deprived both of his liberty and his property. He was deprived of his liberty by being removed "from a place where he has a right to be," Walker asserted. Furthermore, Walker claimed that Plessy, who was sufficiently light-skinned to pass for a white person, was deprived of his reputation of "belonging to the dominant race." In his brief to the Supreme Court, Walker elaborated on how Plessy's reputation amounted to property: [See *Plessy Lawyer Discusses the Reputation of Being a White Man* (Excerpt) (primary document)]

[I]n any mixed community, the reputation of belonging to the dominant race, in this instance the white race, is property, in the same sense that a right of action or of inheritance is property; and that the provisions of the act in question which authorize an officer of a railroad company to assign a person to a car set apart for a particular race, enables such officer to deprive him, to a certain extent at least, of this property—this reputation which has an actual pecuniary value—'without due process of law.'

Critics of the law also rejected the argument that the law was a reasonable operation of the state's police power. The act did not punish any crime or advance public order, they asserted. "What is the act prohibited in the statute in question in this case? The sitting of a white man or woman in the car in which a colored man or woman sits or the sitting of a colored man or woman in the car in which white men or women are sitting,—is this dangerous to the public health? Does this contaminate public morals?" Tourgee asked. Therefore, opponents said, the 10th Amendment argument advanced by the opposite camp was not valid.



Library of Congress
John Marshall Harlan

Critics also denied that segregated railroad cars were the same as segregated schools, and that since segregated schools were well-established, segregated railroads should be allowed as well. The state's right to legislate family affairs—through laws governing the institution of marriage and child rearing—had long been accepted, they said. According to Phillips and McKenney, education was an offshoot of "that branch of police which looks to the interest of future generations and of the republic to come," while public transportation had nothing to do with the interest of future generations. In fact, Walker argued, because the segregated railroad car law prevented mixed-race couples from traveling together, or a white parent from traveling with his or her colored children, the law was "a statutory grant of authority to interfere with natural domestic rights of the most sacred character."

Finally, critics warned about the impact that such laws would have on race relations. Justice Harlan expressed that concern in his dissent:

What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

The Case in Favor of the Separate Car Act

Supporters maintained that the Separate Car Act was constitutional. They asserted that the 13th Amendment was narrowly targeted at ending slavery, and that separate accommodations did not amount to involuntary servitude. To make their case, they relied on a precedent set by the U.S. Supreme Court in its 1883 ruling in the *Civil Rights Cases*. In its opinion in that case, the court declared that "the denial to any person of admission to the accommodations and privileges of an inn, a public conveyance or a theatre, does not subject that person to any form of servitude, or tend to fasten upon him any badge of slavery, even though the denial be founded on the race or color of that person. It is not, therefore, obnoxious to the provisions of the Thirteenth Amendment."

Since the act was not in violation of the 13th Amendment, supporters said, the fate of the entire case rested on whether it violated the 14th Amendment. They concluded that the act did not violate that amendment either. The 14th Amendment was intended to guarantee equality under the law, they pointed out. As long as the accommodations were equal, they said, there could be no discrimination; the act would be unconstitutional only if it sought to legislate *inequality*. In the Supreme Court's *Plessy* decision, Justice Brown recognized that the act was intended to enforce the "absolute equality" of the races under law, but argued that "in the nature of

things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either."

Supporters pointed out that inasmuch as Plessy had never claimed that the accommodations were not equal, the law did not deprive Plessy of any of his rights. Plessy was "simply deprived of doing as he pleased, and of violating a penal statute with impunity," Judge Ferguson concluded. Furthermore, supporters pointed out that the Separate Car Act was not aimed at blacks, but rather applied equally to blacks and whites. Like Plessy, a white person would be arrested if he or she sat in a car designated for colored passengers and refused to move, they said. Therefore, supporters asserted, there was nothing discriminatory about the law.

Far from being unconstitutional, supporters said, the Separate Car Act was a reasonable and legitimate exercise of Louisiana's police powers granted by the 10th Amendment. The Separate Car Act was merely intended to protect the public, supporters said. Louisiana Supreme Court Justice Charles Fenner recognized Louisiana's right to make laws to ensure order in his ruling in *Ex parte Plessy*. "Separation of the races in public conveyances. is in the interest of public order, peace and comfort," he asserted.

Other sources more vividly spelled out the social necessity of separating the races. A *New Orleans Times* editorial on July 9, 1890, declared:

The law—private, not public—which prohibits the negroes from occupying the same place in a hotel, restaurant or theatre as the white, should prevail as to cars also. Whites and blacks may there be crowded together, squeezed close to each other in the same seats, using the same conveniences, and to all intents and purposes in social intercourse. A man that would be horrified at the idea of his wife or daughter seated by the side of a burly negro in the parlor of a hotel or at a restaurant cannot see her occupying a crowded seat in a car next to a negro without the same feeling of disgust.

The Supreme Court likewise considered the "reasonableness" of a law as being crucial to its constitutionality. In determining what was reasonable, Justice Brown took into account the "established usages, customs and traditions of the people, and with a view to the promotion of their comfort, and the preservation for public peace and good order." In his Supreme Court brief, Morse had pointed out that "color and race have been frequently the subject of police regulation in many of the states," establishing a tradition of segregation. After all, supporters said, segregation was already well-established in education—there was no reason it should be disallowed in transportation. Brown reached the same conclusion in his majority opinion.

Proponents also discounted critics' claim that it was impractical to have a law based on determining who was "colored" and who was white. There was, in fact, a simple precedent, they claimed. Cunningham quoted the *Century Dictionary* for the definition of colored people: persons "in the United States, belonging wholly or partly to the African race."

Finally, supporters warned that denying the right to segregate the races in transportation would have far-reaching consequences. "To hold that the requirement of separate though equal accommodations in public conveyances violated the XIVth Amendment would on the same principles necessarily entail the nullity of statutes establishing separate schools and of others, existing in many States, prohibiting inter-marriage between the races," Cunningham asserted in his brief.

The Aftermath of Plessy v. Ferguson

After the Supreme Court upheld the constitutionality of the Separate Car Act, it remanded the case to the lower court, and Plessy had to return to stand trial. On January 11, 1897, he appeared before the criminal district court. He pleaded "guilty" and paid a \$25 fine, ending his legal odyssey.

With its ruling, the Supreme Court essentially put a stamp of legitimacy on segregation for the first time. "Jim Crow" laws became even more pervasive throughout the South, establishing segregation across all sectors. By the turn of the century, blacks and whites were living separate lives in the South.

In 1954, however, the Supreme Court effectively reversed itself with its ruling in *Brown v. Board of*

Education. While that case dealt specifically with segregated schools, the court went further and declared that "separate but equal" was unconstitutional in all areas, striking down the precedent that it had set in *Plessy*.

As had been the case with Reconstruction, the South strongly resisted desegregation. In some areas, integration of schools was forcefully blocked. In 1957, President Dwight D. Eisenhower (R, 1953-61) had to call out federal troops to oversee integration in Little Rock, Arkansas, after the state governor, Orval Faubus, called out the National Guard to prevent a group of black students from attending an all-white high school. Segregation also continued in most public accommodations, including restaurants, hospitals, hotels, buses and trains, and bus and train terminals.

However, in the wake of *Brown*, African Americans began to challenge segregation in other areas of life in a burgeoning civil rights movement. Segregated buses came under attack in 1955, when Montgomery, Alabama, resident Rosa Parks refused to give up a seat on a bus to a white man. Parks was arrested, and her arrest sparked a year-long boycott of Montgomery buses by local blacks. In a ruling on Parks's case in 1956, the Supreme Court prohibited segregation on buses. In 1960, African Americans began targeting segregated restaurants through nonviolent "sit-ins," in which they would take seats at tables in "white" restaurants and simply refuse to move. In late 1960, the Supreme Court ruled that segregation in public transportation was unconstitutional, leading to "freedom rides" of black riders challenging segregation. Finally, the civil rights movement won a major victory with the passage of the Civil Rights Act of 1964, which prohibited discrimination in public accommodations and increased protection of minorities' voting rights. [See Civil Rights Act of 1964]

Since the court in *Plessy* legitimized separate accommodations for blacks and whites, could a different ruling in that case have changed the history of African Americans' rights in the U.S? Historians disagree. Some say that it could have. In *Plessy*, the court for the first time sanctioned segregation; had the court ruled that the Separate Car Act was unconstitutional, those historians say, segregation would never have become so entrenched in the South. Other historians, however, say that a different ruling would not have changed the course of segregation. *Plessy* did not cause racism, they say, but rather reflected the views of the time. Even if the court had ruled against the Separate Car Act, those historians say, the prevailing views of the time would have effectively overridden the court's ruling because people would not change their views overnight simply because the court told them to. Even today, while African Americans enjoy legal equality under the law, the fight to eliminate all traces of discrimination continues.

Discussion Questions & Activities

1. Now was the Separate Car Act said to violate the 13th and 14th Amendments?
2. In arriving at its decision in *Plessy v. Ferguson*, the Supreme Court considered the "established usages, customs and traditions of the people." Do you think that should have been taken into account in determining whether segregation was constitutional? Why or why not?
3. On what grounds did Homer Plessy's lawyer claim that Plessy's reputation as a white man was "property"? What does that argument say about the status of African Americans at the time?
4. Write a brief essay in which you describe how life in the South would have changed (if at all) if the Supreme Court had declared the Separate Car Act unconstitutional in 1896.
5. Read Justice John Marshall Harlan's dissent in *Plessy v. Ferguson* and the majority opinion in *Brown v. Board of Education* and compare the views expressed by Harlan to the views expressed in the 1954 Supreme Court ruling. How were the arguments similar? Were there any major differences?

Suggested Web Sites

Landmark Cases: Plessy v. Ferguson

The Rise and Fall of Jim Crow

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