



PLESSY V. FERGUSON

(1896)



Vocabulary

affirm To agree or support, as when a higher court agrees with the earlier decision of a lower court.

“Jim Crow” laws State laws introduced in the South after reconstruction to give official support to segregation.

Reviewing the Case

On June 7, 1892, Homer Plessy purchased a first-class ticket for a train on the East Louisiana Railway, traveling from New Orleans to Covington, Louisiana. Plessy was of mixed Caucasian and African descent, having had one black great-grandparent. Although Plessy looked white, he was considered black under state law. Plessy took a seat in a car reserved exclusively for white passengers but was told by the conductor that he would have to move to the car for African Americans. Plessy refused to move. The conductor then called local police, who removed Plessy from the train and put him in jail.

Plessy’s arrest and imprisonment were based on an 1890 act of the Louisiana legislature. The law required separate railroad cars for “the white and colored races.” It said that all railway companies carrying passengers in Louisiana must provide “equal but separate accommodations” for the different races, either by having at least two cars on the train or by dividing a single car with a partition.

No one was to be allowed to a coach other than the one assigned to him or her by train officials. Any passenger who insisted on going into the wrong coach or compartment could be fined \$25 or put in jail for up to twenty days.

Plessy pleaded not guilty to the charges against him but was convicted. He appealed to the state supreme court on the grounds that the law was unconstitutional because it conflicted with both the Thirteenth and Fourteenth Amendments. The state supreme court, however, **affirmed** the decision of the trial court. Plessy then asked the U.S. Supreme Court to review the case. The issue before the Court: Does the Louisiana statute establishing separate railroad cars or sections for black and white passengers violate the Thirteenth and Fourteenth Amendments and exceed the lawful police powers of the state?

The Supreme Court ruled by a 7-1 vote to affirm the decisions of the lower courts against Plessy. Justice Henry Brown wrote the majority opinion. The only dissenting vote was Justice John Marshall Harlan, who often voted to uphold black civil rights in cases of this era. (Harlan was the grandfather of Justice John Marshall Harlan who served on the Court from 1955 to 1971.) One justice did not hear the case or participate in the decision.

In the majority opinion, the Court ruled that the Thirteenth Amendment (which was not the main point of Plessy’s case) did not apply because the restriction on seating in no way established any condition of “involuntary servitude.” More importantly, the Court ruled that the Louisiana law did not violate the Fourteenth Amendment because it did not restrict blacks any differently from whites. Each race merely had to use its assigned, separate accommodations on the railways. The justices also believed that states had the right and power to follow established social customs and traditions in restricting the mixing of the races in transportation, schools, and other situations.

Justice Brown, referring to the Fourteenth Amendment, wrote for the majority:

The object of the Amendment was undoubtedly to enforce the absolute equality of the two races before the law, but 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 [mixing] of the two races upon terms unsatisfactory to either. Laws permitting and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power.

Justice John Marshall Harlan, however, saw the intent of the Fourteenth Amendment differently. He wrote in his eloquent dissenting opinion:

... in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. ... The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.

The effects of the *Plessy* decision were far-reaching. It firmly established the doctrine of “separate but equal” as the law of the land. It legitimized the segregation begun under the southern “**Jim Crow**” laws and extended the legality of those laws nationwide. “Separate but equal” remained an accepted principle for some 50 years, until the civil rights movement gained strength in the 1950’s and 1960’s. When it was finally overturned in 1954 (*Brown v. Board of Education*), the Court referred to this decision and to Justice Harlan’s powerful dissent in which he said:

The arbitrary separation of citizens, on the basis of race, while they are on a public highway [the railroad], is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. It cannot be justified upon any legal grounds. If evils result from the commingling of the two races

upon public highways established for the benefit of all, they will be infinitely less than those that will surely come from state legislation regulating the enjoyment of civil rights upon the basis of race. We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead anyone, or atone for the wrong this day done.

Elements of the Case

Directions: Fill in the appropriate information for each of the following elements of this case.

1. State the issue before the Supreme Court in this case. _____

2. What facts of the case were presented to the Court? _____

3a. What was the decision of the Court? 3b. What was the rationale behind it? _____

4. What was the effect of the decision? _____

Evaluation of the Case

Directions: Use your own judgment to evaluate the justice's decision and state your opinion of that decision.

1. Compare the statements of Justices Brown and Harlan. With which did you agree: Explain. _____

2. What do you think Justice Harlan meant when he said that Americans would find it difficult to boast about being the freest people on earth? Do you think this is still true today? _____

3. Do you think that the long acceptance of "separate but equal" promoted the development of a "class system" in this country? Was "separate" ever really "equal"? Explain _____

