

Chapter 6

Equality Postponed

On June 7, 1892, an African-American by the name of Homer Plessy bought a first class ticket from New Orleans to Covington, Louisiana. He entered the train, found an empty seat, and sat down. In keeping with the Louisiana law providing for 'equal but separate' accommodations, the section where Plessy sat was reserved for whites only. Noticing that Plessy wasn't white, the conductor told him to move to a 'colored' car or get off the train. Plessy refused. The conductor called the police and Plessy was forced off the train. Next, Plessy did what fewer than one out of a million victims of discrimination would and could have done. He found a lawyer to argue his case and sued for his right to equal protection of the law. Plessy lost the case because the court ruled that he had broken the Louisiana railroad law. But Plessy appealed his case to the Louisiana Supreme Court, claiming that the law he was accused of breaking was in violation of his 14th Amendment rights. Upon losing in Louisiana, Plessy appealed his case to the Supreme Court of the United States. The case was argued on April 18, 1896.



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An African-American ordered off a train in Philadelphia

The Issues

The Plessy case was one of the most important ever decided by the Supreme Court. It set a precedent that for over 60 years has been used as legal cover for racial discrimination. It provided the South with an answer to the question raised in the beginning of this chapter: "*Does the doctrine of 'separate but equal' facilities for each race discriminate against either?*" and to others like the ones below:

Did the Louisiana law discriminate against blacks or was that only how black people chose to look at it?

Could a verdict against Plessy set an unreasonable precedent or provide only for separation for good and reasonable cause?

Plessy: The Louisiana Law Discriminated Against Black People	Louisiana: The Louisiana Law did not Discriminate against Black people
<p>Everyone knows that the law in question had its origin in the purpose not to exclude white persons from railroad cars occupied by blacks, but to exclude colored people from coaches occupied by whites. The thing to accomplish was to force the latter [blacks] to keep to themselves while traveling in railroad passenger coaches. The fundamental object...to the law is that it interferes with the personal freedom of citizens. If a white man and a black man choose to occupy the same public conveyance on a public highway, it is their right. No government, proceeding alone on grounds of race, can prevent it without infringing on the personal liberty of each.</p>	<p>We consider the underlying fallacy in Plessy's argument to consist in the assumption that forced separation of the races stamps the colored with a badge of inferiority. If this be so, it is solely because the colored race chooses to put that interpretation upon it. Legislation is powerless to eradicate racial instincts or to abolish distinctions based on social differences and the attempts to do so can only result in accentuation of the difficulties of the present situation. If one race be inferior to the other socially, the Constitution of the United States can not put them on the same level.</p>

Plessy: An Unfavorable Verdict Would Create an Unreasonable Precedent	Segregation Would only Result for Good and Reasonable Causes
<p>If a State can prescribe, as a <i>rule of civil conduct</i>, that whites and blacks shall not travel as passengers in the same railroad coach, why may it not so regulate the use of the streets of its towns to compel white citizens to keep on one side of the street and black citizens to keep on the other? Why may it not, upon like grounds, punish those who ride together in streetcars? Why may it not require sheriffs to assign whites to one side of a courtroom and blacks to another? Why may not the State require the separation in railroad coaches of native and naturalized citizens of the United States, or of Protestants and Roman Catholics?*</p>	<p>It is suggested by the learned counsel for the plaintive [Plessy's lawyer] that the same argument that will justify the state legislature in requiring railroads to provide separate accommodations for the two races will also authorize them to require separate cars for people whose hair is of a certain color, or who are aliens, ... or to enact laws requiring colored people to walk on one side of the street and white people upon the other.... The reply to all this is that every exercise of the police power must be passed in good faith, for the promotion of the public good, and not the annoyance or oppression of a particular class.²⁰</p>

Suggested Student Exercises:

1. Compare the positions taken by the opposing justices on the issues of discrimination and precedent. Which does each say about separate being equal? Which one makes more sense to you? Why?

* In case the reader had any doubt, the decision in the Plessy case was 8-1, favoring the arguments on the right hand part of this page. John Marshall Harlan, the only Supreme Court justice ruling for Plessy, had owned slaves. The opinion allowing for racial segregation for over 60 years was written by Justice Henry Billings Brown of Michigan.

²⁰Plessy v. Ferguson (1896) 163 US 537, pp. 540–52 (edited)

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2. After reading the appendix to this chapter, name of the five most unreasonable Jim Crow laws and explain whether these laws support Harlan's or the Court's reasoning

Epilogue

There was no doubt that Justice Harlan's prediction as to the possible extremes of segregation was prophetic. No longer restrained by outraged northern citizens concerned with the plight of African-Americans, Southern State legislatures passed thousands of Jim Crow laws. They regulated even the most minute details of black/white relations. Some of the more bizarre examples have been collected by the historian C. Vann Woodward in his book *The Strange Career of Jim Crow*:

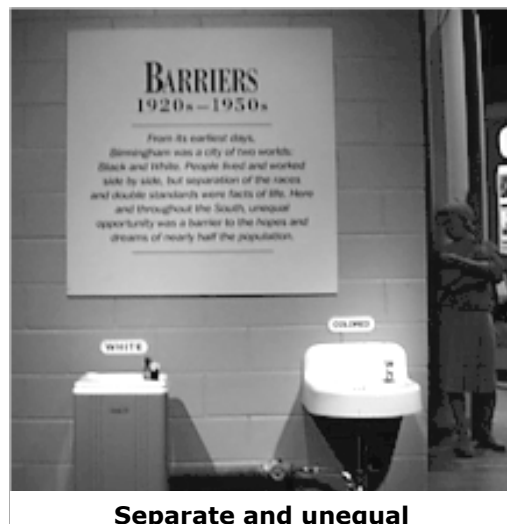


The South Carolina Code of 1915, with later additions, prohibited textile factories from permitting workers of different races to work together in the same room, use the same entrances, pay windows, exits, doorways, and stairways at the same time, or use the same toilets, drinking water buckets, pails, cups or glasses at any time.

In 1909 Mobile, (Alabama) passed a curfew law applying only to Negroes and requiring them to be off the streets by 10 P.M.

The Oklahoma legislature in 1915 required telephone companies to maintain separate booths for 'white and colored patrons.' North Carolina and Florida required that textbooks used by the public school children of one race be kept separate from those used by the other, and the Florida law specified separation even while the books were in storage, A New Orleans ordinance segregated white and Negro prostitutes in separate districts.

An Atlanta ordinance in 1932 prohibited amateur baseball clubs of different races from playing within two blocks of each other, A Birmingham ordinance got down to particulars in 1930 by making it 'unlawful for a Negro and a white person to play together or in company with each other' at dominoes or checkers.²¹



²¹Quoted in C. Vann Woodward *The Strange Career of Jim Crow*, New York, 1966), pp. 101–102, 117–118.