

Plessy v. Ferguson / Interpreting the Constitution (•••)

Directions:

1. Read the **Methods of Interpretation** section below.
 2. Read the **Opinion Excerpts** from *Plessy* (page 2).
 3. Answer the **Questions to Consider** (page 3).
-

Methods of Interpretation

When courts must decide a case, the meaning of the laws in question is not always clear. The 14th Amendment, which guarantees equal protection of the laws, has been particularly difficult to interpret over the years because of the ambiguous nature of the concept of equality. Does treating people equally mean treating them exactly the same? Or are there circumstances when equal treatment sometimes requires different treatment? The courts have come to different conclusions at different points in history and in different cases.

Judges use their reasoning skills to decide what particular laws mean when they rule on cases. Judges sometimes use different reasoning skills to interpret the Constitution, meaning that judges do not always agree on the meaning of the Constitution. Below are five of the widely accepted methods of interpretation that shed some light on the meaning of the Constitution.

Historical interpretation	A judge looks to the intentions of the framers and ratifiers of the Constitution to shed light on its meaning.
Textual interpretation	A judge looks to the meaning of the words in the Constitution, relying on the ordinary understanding of the legal text.
Doctrinal interpretation	A judge applies rules established by precedents.
Ethical interpretation	A judge looks to the moral commitments reflected in the Constitution.
Prudential interpretation	A judge seeks to balance the costs and benefits of a particular ruling.

Opinion Excerpts

Keeping these interpretation tools in mind, read the following excerpts from the majority and dissenting opinions in *Plessy v. Ferguson*. The majority and dissenting opinions each had different interpretations of the 14th Amendment. Consider the original wording of the 14th Amendment and determine which method of reasoning (e.g., historical, textual, etc.) was used to reach an opinion.

14th Amendment to the U.S. Constitution

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.

Majority Opinion

The object of the [14th] 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 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.

Dissenting Opinion

They [13th, 14th, and 15th Amendments] removed the race line from our governmental systems. They had . . . a common purpose, namely, to secure “to a race recently emancipated, a race that through many generations have been held in slavery, all the civil rights that the superior race enjoy.”

They declared, in legal effect, this court has further said, “that the law in the states shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the states; and in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color.”

The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity or right, most valuable to the colored race, the right to exemption from unfriendly legislation against them distinctively as colored; exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which

