

***Plessy v. Ferguson* / Background ●●●**

In 1890, Louisiana passed a statute called the Separate Car Act, which stated “all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored¹ 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 car 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 Black citizens who raised \$3,000 to challenge the act, and the East Louisiana Railroad Company, which sought to terminate the act largely because it cost them money to maintain segregated seating. The groups chose a 30-year-old shoemaker named Homer Plessy, a citizen of the United States and a resident of the state of Louisiana who was one-eighth Black. On June 7, 1892, Plessy purchased a first-class passage from New Orleans to Covington, Louisiana, and sat in the railroad car designated for White passengers. 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, agreed to argue the case without compensation.

In the criminal District Court for the parish of Orleans, Plessy’s attorney argued that the Separate Car Act violated the 13th and 14th Amendments to the U.S. Constitution.

– **13th Amendment**

Section 1. 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.

– **14th 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 previously declared the Separate Car Act “unconstitutional on trains that traveled through

¹ The Separate Car Act uses dated race-related terminology that has been left intact in quoted material only.

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 as constitutional. Plessy petitioned 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, not because he was a party to the initial lawsuit.

Questions to Consider

1. What law did Homer Plessy violate? How did Plessy violate this law?
2. What rights do the 13th and 14th Amendments to the Constitution provide?
3. If you were Plessy’s lawyer, how would you justify your claim that the Separate Car Act violates the 13th and 14th Amendments?
4. In *State of Louisiana v. Plessy*, Judge Ferguson decided that the state could choose to regulate railroad companies that operated within the state even though he had previously declared the Separate Car Act unconstitutional on trains that traveled through several states. If an act is declared unconstitutional in one case, shouldn’t it be held unconstitutional in all cases? How do you think Judge Ferguson could legally justify making this distinction?
5. Are separation and equality compatible? Why or why not?