

Plessy v. Ferguson / Interpreting the Constitution (•••)—Answer Key

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).
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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

others enjoy; and discriminations which are steps towards reducing them to the condition of a subject race.

Questions to Consider

1. What method(s) of interpretation is being used in the majority opinion? What language supports your finding of the method(s) of interpretation being used?
 - **Historical interpretation**—The opinion states that the 14th Amendment could not have been "intended" [by its Framers] to abolish social distinctions
 - **Structural interpretation (perhaps)**—The opinion refers to the jurisdiction of the federal government v. state governments when it refers to the police power of states to allow separation of races
 - **Prudential interpretation (perhaps)**—The opinion is clearly concerned with social order and is fearful of the social upheaval that could result with the Court requiring the end of segregation
 - **Doctrinal interpretation**—Laws like this have been "generally, if not universally, recognized" as permissible
2. What method(s) of interpretation is being used in the dissenting opinion? What language supports your finding of the method(s) of interpretation being used?
 - **Historical interpretation**—The opinion refers to the intent of the Framers to abolish distinctions based on race
 - **Textual interpretation**—The opinion focuses on equality and the common understanding that it means that there should be no "legal discriminations" based on race
 - **Ethical interpretation**—The opinion is committed to the ideal of equality laid out in the Constitution
3. Using the 14th Amendment and the facts in the *Plessy v. Ferguson* case, give your interpretation of the 14th Amendment as it applies to *Plessy*. What method of interpretation did you use? Why?

Student answers will vary here given their choice of methods of interpretation. They should cite passages referred to in #1 and #2.
4. What are the drawbacks to each type of interpretive method?
 - **Historical Interpretation**—It is difficult to know for sure what the intentions of the Framers were. Just because the Framers intended the meaning of the Constitution to be one thing, does not mean that modern society is wrong to interpret it differently. For instance, the Framers' understanding of equality before the law may have been different in the context of slavery than it is today.
 - **Textual Interpretation**—Common, modern understandings of words in the Constitution could be very different from what the Framers intended. The Constitution is a document that lays out a contractual relationship between the people and their government and between the different components of government. If our understanding

of that relationship has changed, then perhaps we should amend the Constitution deliberately and clearly rather than reading different meanings into the same words.

- **Structural Interpretation**—As societies grow and evolve, their needs change so the rules laid out in the Constitution may not apply so well to present-day needs. A complex society cannot neatly divide its governance into three categories (are administrative agencies "legislative" or "judicial"?) and it is impossible to separate state from national concerns in the modern economy.
- **Doctrinal Interpretation**—There may not be a precedent for certain cases or the precedent may be based on faulty logic.
- **Ethical Interpretation**—People may not agree on what specific ethical commitments exist in the Constitution.
- **Prudential Interpretation**—Looking exclusively at costs and benefits of a particular ruling may ignore the ethical, historical, textual, or doctrinal responsibilities of court decision-making. Making decisions based on expediency could threaten the conceptual foundations of the nation and give courts legislative powers.

5. What are the benefits of each type of interpretive method?

- **Historical Interpretation**—Looking to the intent of the Framers could give constitutional interpretation a certain consistency and force the country to clearly amend the Constitution when ideals and interpretations of the rights and relationships of people and their government change.
- **Textual Interpretation**—"Loose" textual interpretation could allow the Constitution to remain a "living" document, relevant to all time periods regardless of the specific intents of the Framers.
- **Structural Interpretation**—Despite the changes to society, the basic rules that the Constitution sets out for the relationships between the branches and between the people and their government should remain the same. The structural principles remain the same, although their application can be more difficult.
- **Doctrinal Interpretation**—Referring to precedent helps keep the interpretation of the Constitution consistent and helps preserve the rule of law.
- **Ethical Interpretation**—Keeping loyal to the higher ethical demands of the Constitution will help keep Courts from straying into decision-making based on expedience.
- **Prudential Interpretation**—Social order is an important consideration, particularly for a Court that relies on the public for executing its decisions.

6. Do you believe the courts should follow only one type of interpretive method? Why or why not?

Student answers will vary.