

SEPARATE BUT EQUAL: PLESSY V. FERGUSON (1896)

Homer Plessy was a citizen of the United States and a resident of the state of Louisiana. Plessy was of mixed descent; he was 7/8ths white and 1/8th black. On June 7, 1892 he purchased a first-class ticket on the East Louisiana Railway from New Orleans to Covington, Louisiana. The train made the trip from New Orleans north around Lake Ponchartrain to Covington.

Homer Plessy walked to the waiting train. Some cars were marked "FOR COLOREDS ONLY," others "FOR WHITES ONLY." Plessy went to the car "for whites only," entered, and took a seat.

The General Assembly of the State of Louisiana had passed a law in 1890 requiring in-state trains to provide "separate but equal" coaches for members of the "white race" and members of the "black race." No passenger, because of his or her race, was allowed to take a seat in a car marked for those of another race. The law stated:

Louisiana Statute 1890, No. 111, p. 152

Section I: That all railway companies carrying passengers in their coaches in the State, shall provide equal but separate accommodations for the white and colored races by providing two or more passenger coaches for each train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: Provided that this section shall not be construed to apply to street railroads. No person or persons shall be admitted to occupy seats in coaches, other than the ones assigned to them on account of the race they belong to.

Section II: That the officers of such passenger trains shall have the power and are hereby required to assign each passenger to the coach or compartment used for the race to which such passenger belongs; Any passenger insisting on going into a coach or compartment to which by race he does not belong, shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison... And should any passenger refuse to occupy the coach or compartment to which he or she is assigned by the officer of such railway, said officer shall have power to refuse to carry such passenger on his train, and for such refusal neither he nor the railway company which he represents shall be liable for damages in any of the courts of this State.

When the conductor arrived, Plessy was ordered to leave and to take a seat in the section of the train for black people. Plessy refused to comply with the demands of the conductor. A policeman was summoned, and Plessy was forcibly removed from the train. Plessy was taken to jail to answer a charge of having violated Louisiana law.

Plessy filed for a writ of prohibition against the Honorable John H. Ferguson, judge of the criminal District Court for the Parish of Orleans. The writ of prohibition was to stop Judge Ferguson from enforcing the law because that law was in conflict with the Fourteenth Amendment to the U.S. Constitution and was, therefore, null and void. Because the Fourteenth Amendment had made him a citizen, Plessy claimed that he was entitled to the privileges and immunities of citizens and to equal protection of the laws.

Because this was an important legal question, the case had to be heard by the Supreme Court of Louisiana. There the lawyers for the state argued that the Fourteenth Amendment was intended to protect political rights such as voting or holding public office. Seating on a train was not a political right; therefore, the state, by law, could separate the races as long as equal rights were provided for both races. The Supreme Court in Louisiana denied the writ of prohibition and ordered Plessy to stand trial.

Homer Plessy then took his case to the Supreme Court of the United States.

Questions for Discussion

1. What is segregation? Have you seen segregation in practice? Give examples.
2. What is meant by "separate but equal"? Explain. Do you think that the segregated railway cars of Homer Plessy's day were really equal? Can anything that is segregated ever be truly equal? Why or why not?
4. What does "equal protection of the laws" mean? Who has a right to "equal protection of the laws"? Look at the Fourteenth Amendment on Handout 21-2.
5. How do you think the U.S. Supreme Court ruled in Homer Plessy's case? Why?