

## CONSTITUTION 101

Module 9: The Judicial System and Current Cases

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### PLESSY V. FERGUSON (1896)

View the case on the Constitution Center’s website [here](#).

#### SUMMARY

In 1890, Louisiana passed a law segregating railroad cars within the state—separating African American passengers from white passengers. This law was a symbol of the collapse of African American civil and political rights and the rise of Jim Crow laws throughout the South in the late 1800s. Homer Plessy—an African American—challenged the law, arguing that it violated the 14th Amendment’s Equal Protection Clause. However, the Supreme Court—in a 7-1 vote—upheld the Louisiana law, concluding that laws providing for “separate but equal” facilities for African Americans and white Americans were consistent with the Constitution. Over a half a century later, the Supreme Court would finally overrule the infamous *Plessy* decision in *Brown v. Board of Education* (1954).

[Read the Full Opinion](#)

#### **Excerpt: Majority Opinion, Justice Brown**

The object of the [Fourteenth] 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. The most common instance of this is connected with the establishment of separate schools, which have been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced. . . .

So far, then, as a conflict with the Fourteenth Amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and, with respect to this, there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort and the preservation of public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is

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unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures. . . .

We consider the underlying fallacy of [Plessy's] argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption. The argument also assumes that social prejudices must be overcome by legislation, and that equal rights cannot be secured . . . except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary assent of individuals. . . .

Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation.

#### **Excerpt: Dissent, Justice Harlan**

The white race deems itself to be the dominant race in this country. And so it is in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time if it remains true to its great heritage and holds fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a State to regulate the enjoyment by citizens of their civil rights solely upon the basis of race. . . .

In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott Case. It was adjudged in that case that the descendants of Africans who were imported into this country and sold as slaves were not included nor intended to be included under the word 'citizen' in the Constitution, and could not

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claim any of the rights and privileges which that instrument provided for and secured to citizens of the United States; that, at the time of the adoption of the Constitution, they were 'considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them.' The recent amendments of the Constitution, it was supposed, had eradicated these principles from our institutions. But it seems that we have yet, in some of the states, a dominant race—a superior class of citizens, which assumes to regulate the enjoyment of civil rights, common to all citizens, upon the basis of race. The present decision, it may well be apprehended, will not only stimulate aggressions, more or less brutal and irritating, upon the admitted rights of colored citizens, but will encourage the belief that it is possible, by means of state enactments, to defeat the beneficent purposes which the people of the United States had in view when they adopted the recent amendments to the Constitution . . . .

The destinies of the two races in this country are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens. That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana. . . .

The surest guarantee of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, National and State, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States, without regard to race. State enactments regulating the enjoyment of civil rights upon the basis of race, cunningly devised to defeat the legitimate results of the [Civil War] under the pretence of recognizing equality of rights, can have no other result than to rend permanent peace impossible and to keep alive a conflict of races the continuance of which must do harm to all concerned.