

Plessy v. Ferguson (1896)

Background: In 1890, Louisiana passed a statute called the Separate Car Act declaring that all rail companies carrying passengers in Louisiana must provide separate but equal accommodations for white and non-white passengers. The penalty for sitting in the wrong compartment was a fine of \$25 or 20 days in jail. A group of black citizens joined forces with the East Louisiana Railroad Company to fight the Act. In 1892, Homer Plessy, who was one-eighth black, purchased a first-class ticket and sat in the white-designated railroad car. Plessy was arrested for violating the Separate Car Act and argued in court that the Act violated the Thirteenth and Fourteenth Amendments to the Constitution. After losing twice in the lower courts, Plessy took his case to the U.S. Supreme Court

Excerpt from the Majority Opinion –

“We consider the underlying fallacy of the plaintiff'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 also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro 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 consent 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. If the civil and political rights of both races be equal one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.”

According to the court, how can social prejudices be ended? How can they not be ended? Explain. Do you agree with the court's reasoning?

Excerpt from the Dissenting Opinion – Justice John Marshall 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 the 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....

The arbitrary separation of citizens, on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. It cannot be justified upon any legal grounds.”

Why did Harlan dissent? How would a member of the majority respond to his argument? Is there anything in this excerpt that reveals Harlan's view on equality of African-Americans and whites outside of the law? Explain.