

GLI Document Project-Plessy v. Ferguson

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Essential Question

How does race affect citizenship?

Main ideas

Students will be able to explain how:

- the issue of race is tied to economics and power.
- the Election of 1876 allowed the southern states to rewrite their constitutions which allowed Jim Crow laws like Louisiana's Separate Car Act of 1890 to be instituted.
- the case developed through the lower courts and was adjudicated by the Supreme Court.
- compromise in the area of race affected the country from its founding to the end of the 19th Century.
- the legacy of Plessy showed how the racial inaction by leadership in the North (i.e. Justice Brown) helped empower active discrimination in the South.
- Plessy legitimized segregation specifically and institutionalized Jim Crow in both the North and the South.

Assessment Options

A. Document Analysis

From the beginning of the unit, there will be on-going assessment as students read, analyze, discuss and share documents in class.

B. Meet The Press

Students will participate in simulation of "Meet The Press" which will feature interviews with key people from the Plessy vs. Ferguson case. In pairs, students will gather information about their assigned individual from in-class work and library research. Teams will write the five key questions which David Gregory will ask and write five answers to those questions. Finally, the teams will act out the interview in front of the class with one student playing the historical figure and one student playing David Gregory. After the interview is complete, audience members can ask follow-up questions and the "actors" should respond in character.

The following people will be interviewed for this assessment:

- Albion Tourgee
- Judge Ferguson
- Justice Brown
- Justice Harlan
- Editor of The Times-Picayune (LA)
- Editor of The Republican (MA)

C. Jeopardy

Using a software program, students will answer questions in specific categories about the case. The categories will be Plessy vs. Ferguson, Social Compromise, Military, Public Discourse and Jim Crow.

D. Timeline 1860-1900

As a visual option, students will select six events described in the unit and create an illustrated timeline. Each event on the timeline must include a description of the event, a date and a picture. In addition to the timeline itself, students will write a paragraph describing why he or she chose these particular events to illustrate.

Historical Overview

In 1890, the Separate Car Act was passed by the Louisiana State Legislature which required "separate but equal" train car accommodations for black and white passengers. Passengers were required to sit in the appropriate areas or face a \$25 fine or a 20-day jail sentence. While there was strong opposition from the black community to the law, popular opinion among whites held that it would make train travel more comfortable for the public at large.

In 1891, a group of New Orleans activists set up the Citizens Committee to Test the Constitutionality of the Separate Car Law and chose Homer Plessy, a man who was 1/8 black, to purchase a first class train ticket from New Orleans, LA to Covington, LA. Albion Tourgee, a former judge and prominent supporter of equal rights, was hired to be Plessy's lawyer. Plessy purchased a ticket, boarded the "white carriage" and was arrested for violating the Separate Car Act. In the district court for the Parish of Orleans, Tourgee argued that the law requiring "separate but equal accommodations" violated the 13th and 14th amendments to the Constitution. Judge Ferguson ruled against Plessy as did the Supreme Court. Thus, the standard of "separate but equal" was upheld and systematic segregation under state law was permitted to flourish in the form of Jim Crow laws. For the next 50 years, Americans lived in a segregated society until the Brown v. Board decision in 1954.

Editorial of The Republican (Springfield, Massachusetts) May 20, 1896

The South ought to be happy now that the United States supreme court has affirmed the constitutionality of the Louisiana law providing separate coaches for negro passengers on the railroads. The law may now be expected to spread like the measles in those commonwealths where white supremacy is thought to be in peril. Did the southerners ever pause to indict the Almighty for allowing negroes to be born on the same earth with white men? We fear it was the one great mistake in creation not to provide every race and every class with its own earth.

Editorial, The Republican (Springfield, MA), May 20, 1896.

Guided Questions for the Editorial from The Republican

1. After reading the editorial, what would you think equality of rights mean?
2. How does the second paragraph relate to the political climate of today?
3. What is the view of socialism by the author of this article?
4. How do the editorials differ in their viewpoint of Southerners?
5. In The Republican editorial, we read about the creation of two earths: one for whites and one for African-Americans. What understanding do you gain from this viewpoint?

Editorial of The Times-Picayune (New Orleans) May 19, 1896

Equality, but Not Socialism

The Louisiana Law which requires that the railways operating trains within the limits of the State shall furnish separate but equal facilities for white and negro passengers was passed upon by the Supreme Court of the United States, and was yesterday declared to be constitutional. . . .

As there are similar laws in all the States which abut on Louisiana, and, indeed, in most of the Southern States, this regulation for the separation of the races will operate continuously on all lines of Southern railway. Equality of rights does not mean community of rights. The laws must recognize and uphold this distinction; otherwise, if all rights were common as well as equal, there would be practically no such thing as private property, private life, or social distinctions, but all would belong, to everybody who might choose to use it.

This would be absolute socialism, in which the individual would be extinguished in the vast mass of human beings, a condition repugnant to every principle of enlightened democracy.

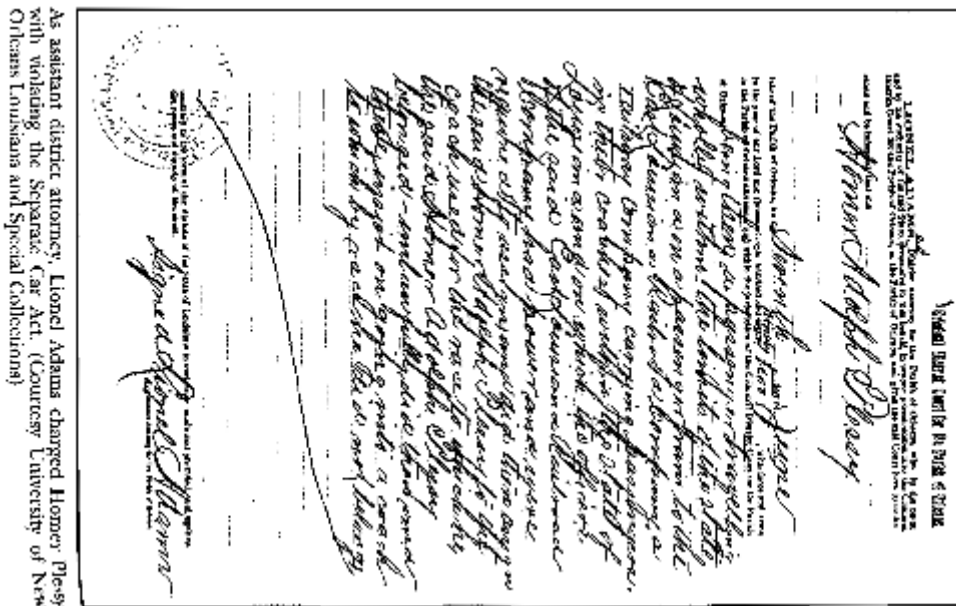
"Equality, but Not Socialism," Editorial, Times-Picayune [New Orleans], May 19, 1896.

Guided Questions for the Editorials from the Times –Picayune

1. After reading the editorial, what would you think equality of rights mean?
2. How does the second paragraph relate to the political climate of today?
3. What is the view of socialism by the author of this article?

Guided Questions for both editorials (The Times-Picayune and The Republican)

1. How do the editorials differ in their viewpoint of Southerners?
2. In the Republican editorial, we read about the creation of two earths: one for whites and one for African-Americans. What understanding do you gain from this viewpoint?



Brook Thomas, ed., *Plessy v. Ferguson: A Brief History with Documents* (New York: Bedford Books, 1997), p.95.

Plessy vs. Ferguson – The Complaint

Upon Homer Plessy's arrest, Lionel Adams, assistant attorney in the Parish of Orleans, charged him with violating the Separate Car Act. Below is the text from the legal complaint:

Be informed that one Homer Adolph Plessy late of the Parish of Orleans on the Seventh day of June in the year of our Lord 1892 with force and arms on the Parish of Orleans aforementioned and within the jurisdiction of the Criminal District Court for the Parish of Orleans being then a passenger travelling wholly within the limit of the state of Louisiana on a passenger train on the East Louisiana Railroad Company, a railway company carrying passengers. The officers of the said East Louisiana Railroad Company had power and were required to assign and did then assign the said Homer Adolph Plessy to the coach used for the race to which the said Homer Adolph Plessy belonged. Unlawfully, he did then and there insist on going into the coach to which by race he did not belong.

Guided Questions for Plessy Complaint

1. In the legal complaint, is there any mention of Homer Plessy's race? Why or why not?
2. How does the language in the complaint characterize Plessy's behavior?



Brook Thomas, ed., *Plessy v. Ferguson: A Brief History with Documents* (New York: Bedford Books, 1997), p.2.

Negro Repulsion from Railway Car, Philadelphia

Guided Questions for "Railway Car" Cartoon

1. The people illustrated in the cartoon have different expressions on their faces. How did the artist portray each person? Did the artist communicate a particular point of view? If so, what is it?
2. If you had to guess whether the artist was black or white, what would you say? Why?
3. Do you think that the Plessy vs. Ferguson case was portrayed differently in the United States as compared to in Britain?



John Vachon, photographer, "A railroad station," (photograph) Available from: Prints and Photographs Division Online Catalogue, Library of Congress <http://www.loc.gov/rr/print/list/085_disc.html> (accessed 22 July 2009).

"A Railroad Station" by John Vachon

Guided Questions for "A Railroad Station"

1. Justice Harlan asks in his dissent whether Plessy could lead to segregation as mundane as which side of the street whites and black may walk on. Do you see a connection with this picture from the 30s and his concern? The majority stated that taking Plessy that far was "unreasonable"? Who was right?
2. Justice Harlan predicts that Plessy will be as "pernicious" as Dred Scott. What does the word pernicious mean? Judging by this picture, is he correct?
3. Justice Brown's opinion states that the defense argument that the Separate Railway Act would create a 'badge of inferiority' was an underlying fallacy of the case. In hindsight, was he correct?

Opinion of the Supreme Court on Plessy vs. Ferguson

Justice Brown delivered the opinion of the Court on May 18, 1896. An excerpt of the opinion is below:

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 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 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.

It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different States, some holding that any visible admixture of black blood stamps the person as belonging to the colored race, others that it depends upon the preponderance of blood and still others that the predominance of white blood must only be in the proportion of three-fourths. But these are questions to be determined under the laws of each State, and are not properly put in issue in this case.

"Plessy versus Ferguson," (1992), Legal Information Institute-Cornell University Law School, <http://straylight.law.cornell.edu/supct/html/historics/USSC_CR_0163_0537_ZO.html> (22 July 2009).

Guiding Questions for Justice Brown's opinion

1. In Justice Brown's opinion, what incorrect assumption does he believe Plessy made in this case? Do you agree? Why or why not?
2. Justice Brown states that "if one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane." Do you agree or disagree? Why?
3. According to Justice Brown, who is responsible for determining what proportion of colored blood is necessary to classify a person as colored? Why do you think he places the responsibility on a party other than the Supreme Court?

Dissenting Opinion by Justice Harlan regarding Plessy vs. Ferguson

Justice Harlan provided a dissenting opinion from the Court on May 18, 1896. An excerpt of his dissent is below:

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.

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.

If evils will result from the commingling of the two races upon public highways established for the benefit of all, they will be infinitely less than those that will surely come from state legislation regulating the enjoyment of civil rights upon the basis of race. We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead anyone, nor atone for the wrong this day done.

"Plessy versus Ferguson," (1992), Legal Information Institute-Cornell University Law School,
<http://straylight.law.cornell.edu/supct/html/historics/USSC_CR_0163_0537_ZD.html>
(22 July 2009).

Guiding Questions for Judge Harlan's Dissent

1. In Justice Harlan's dissent, why and how does he describe the Constitution as being "color blind"?
2. According to Justice Harlan, there is a greater evil than the races riding together on a train. What is it?
3. Harlan states that "the thin disguise of equal accommodations" will not fool anyone. What does he mean by this?
4. What facts about this case surprise you the most? What surprises you the least?
5. Why do you think that we still talk about this case today?