

PLESSY v. FERGUSON (1896)

DIRECTIONS

Read the Case Background and the Key Question. Then analyze Documents A-M. Finally, answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

Case Background

Although the Declaration of Independence affirmed that “all men are created equal,” and had inalienable rights including liberty, African Americans were systematically denied their liberty with the institution of slavery. Even after the Civil War and the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments, segregation was a fact of life in the United States. Throughout the country, the races remained separated by both custom and law.

With the end of Reconstruction, every southern state, as well as some northern ones, passed what came to be termed Jim Crow laws. These policies required segregation in public places. African Americans were denied equal access to public facilities like transportation, education, and the voting booth. In 1878, the Supreme Court held that states could not require integration on interstate common carriers. In 1890, the Court held that Mississippi could require segregation on modes of interstate transportation.

Five years later, Homer Plessy, a resident of Louisiana, decided to challenge a Louisiana law requiring segregation on railcars by purchasing a train ticket and sitting in a “whites only” car. Because Plessy was an “octoroon” (1/8th black), he was subject to the black codes of Louisiana. When he was questioned as to his status, he admitted to being an octoroon, and was arrested when he refused to leave the car. He appealed his case to the Supreme Court of Louisiana and eventually the United States Supreme Court, claiming that the Louisiana law violated the Fourteenth Amendment.

KEY QUESTION

Evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism.

Documents you will examine:

- A The Declaration of Independence, 1776
- B Thomas Jefferson, *Notes on the State of Virginia*, 1787
- C The Constitution of the United States, 1789
- D The Tenth Amendment, 1791
- E Thomas Jefferson to Henri Gregoire, 1809
- F Argument of John Quincy Adams, *Amistad* Case, 1841
- G “The American Declaration of Independence Illustrated,” 1861
- H Section of The Fourteenth Amendment, 1868
- I *Civil Rights Cases*, 1883
- J Final Judgment, *Plessy v. Ferguson*, 1896
- K Majority Opinion (6-1), *Plessy v. Ferguson*, 1896
- L Dissenting Opinion, *Plessy v. Ferguson*, 1896
- M “At the Bus Station,” 1940

DOCUMENT A

The Declaration of Independence, 1776

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness....

- ▶ **In what manner does the Declaration of Independence understand all people to be equal?**

DOCUMENT B

Thomas Jefferson, *Notes on the State of Virginia*, 1787

Comparing [Negros] by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous.... This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people.

- ▶ **Contrast Jefferson's views on racial equality with the assertion of the Declaration of Independence (Document A).**

DOCUMENT C

The Constitution of the United States, 1789

Article I, Section 2, Paragraph 3: Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

- ▶ **Who are the “all other Persons” referred to in this document?**
- ▶ **How were these “all other persons” counted for the purpose of apportioning a state's representatives and direct taxes?**

DOCUMENT D

The Tenth Amendment, 1791

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

- ▶ **Restate the Tenth Amendment in your own words.**

DOCUMENT E

Thomas Jefferson to Henri Gregoire, 1809

Be assured that no person living wishes more sincerely than I do, to see a complete refutation of the doubts I have myself entertained and expressed on the grade of understanding allotted to them [Negroes] by nature, and to find that in this respect they are on a par with ourselves. My doubts were the result of personal observation on the limited sphere of my own State, where the opportunities for the development of their genius were not favorable, and those of exercising it still less so. I expressed them therefore with great hesitation; but whatever be their degree of talent it is no measure of their rights. Because Sir Isaac Newton was superior to others in understanding, he was not therefore lord of the person or property of others. On this subject they are gaining daily in the opinions of nations, and hopeful advances are making towards their re-establishment on an equal footing with the other colors of the human family.

- ▶ **How does Jefferson clarify his beliefs on the racial inferiority of blacks (Document B)?**

DOCUMENT F

Argument of John Quincy Adams, *Amistad* Case, 1841

Note: In 1839, Africans aboard the schooner Amistad revolted and demanded to be returned home. The captain instead brought them to New York, and the captives were to be sold as slaves. A legal battle followed over the question of the status of the captive Africans.

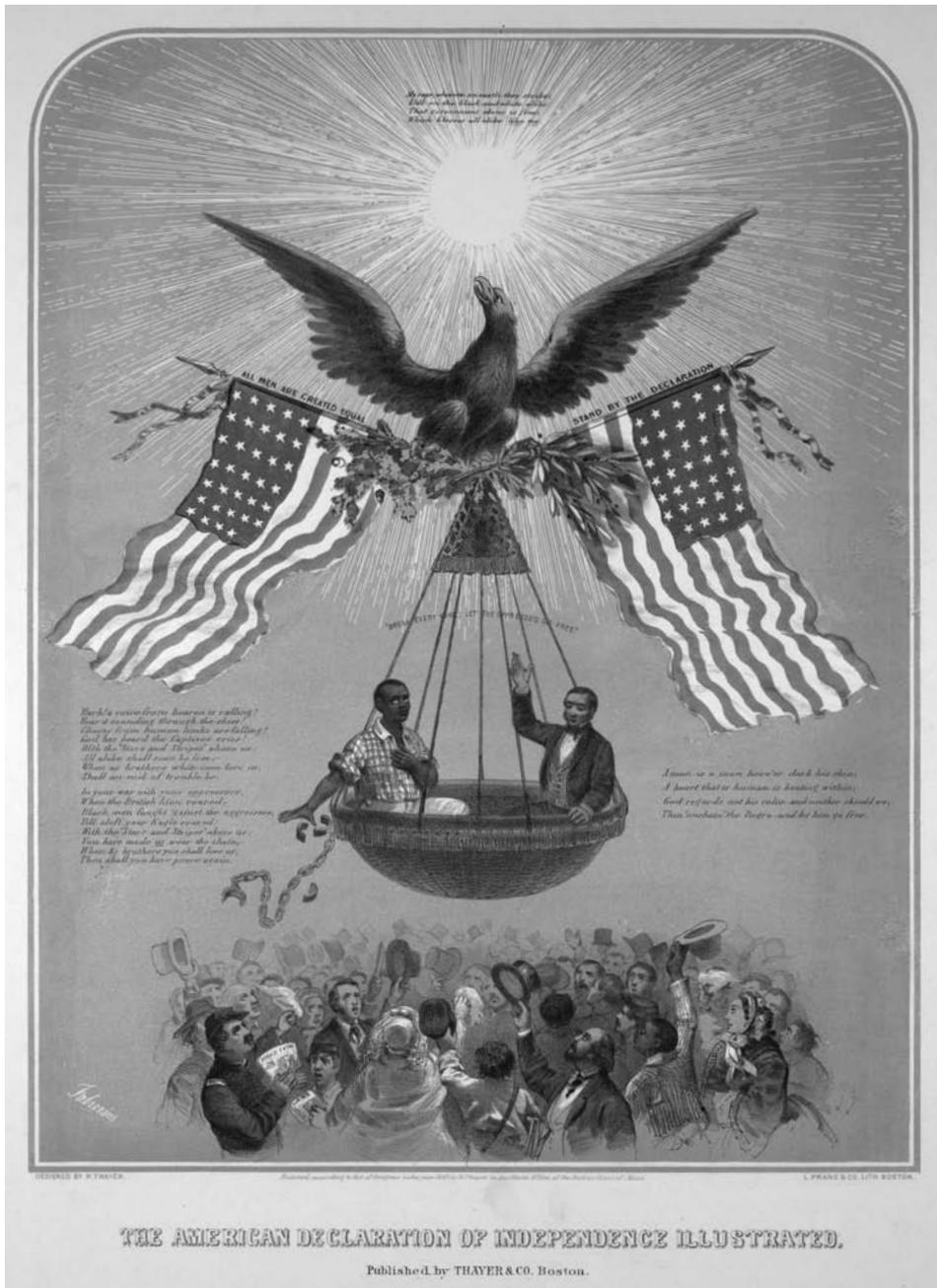
The Constitution of the United States recognizes the slaves, held within some of the States of the Union, only in their capacity of persons. ...The Constitution nowhere recognizes them as property. The words slave and slavery are studiously excluded from the Constitution. Circumlocutions are the fig-leaves under which these parts of the body politic are decently concealed. Slaves, therefore, in the Constitution of the United States are recognized only as persons, enjoying rights and held to the performance of duties.

That Declaration [of Independence] says that every man is “endowed by his Creator with certain inalienable rights,” and that “among these are life, liberty, and the pursuit of happiness.” ...The moment you come, to the Declaration of Independence, that every man has a right to life and liberty, an inalienable right, this case is decided. I ask nothing more in behalf of these unfortunate men, than this Declaration.

- ▶ **What does Adams argue about the Constitution’s recognition of slaves?**
- ▶ **Why does Adams reference the Declaration of Independence?**

DOCUMENT G

“The American Declaration of Independence Illustrated,” 1861



- ▶ What does the artist believe is the promise of the Declaration of Independence?

DOCUMENT H

Section of The Fourteenth Amendment, 1868

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....

Section. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

- ▶ **What does the Fourteenth Amendment guarantee to residents of every state?**
- ▶ **Does Section 5 of this document change the meaning of the Tenth Amendment (Document D)?**

DOCUMENT I

Civil Rights Cases, 1883

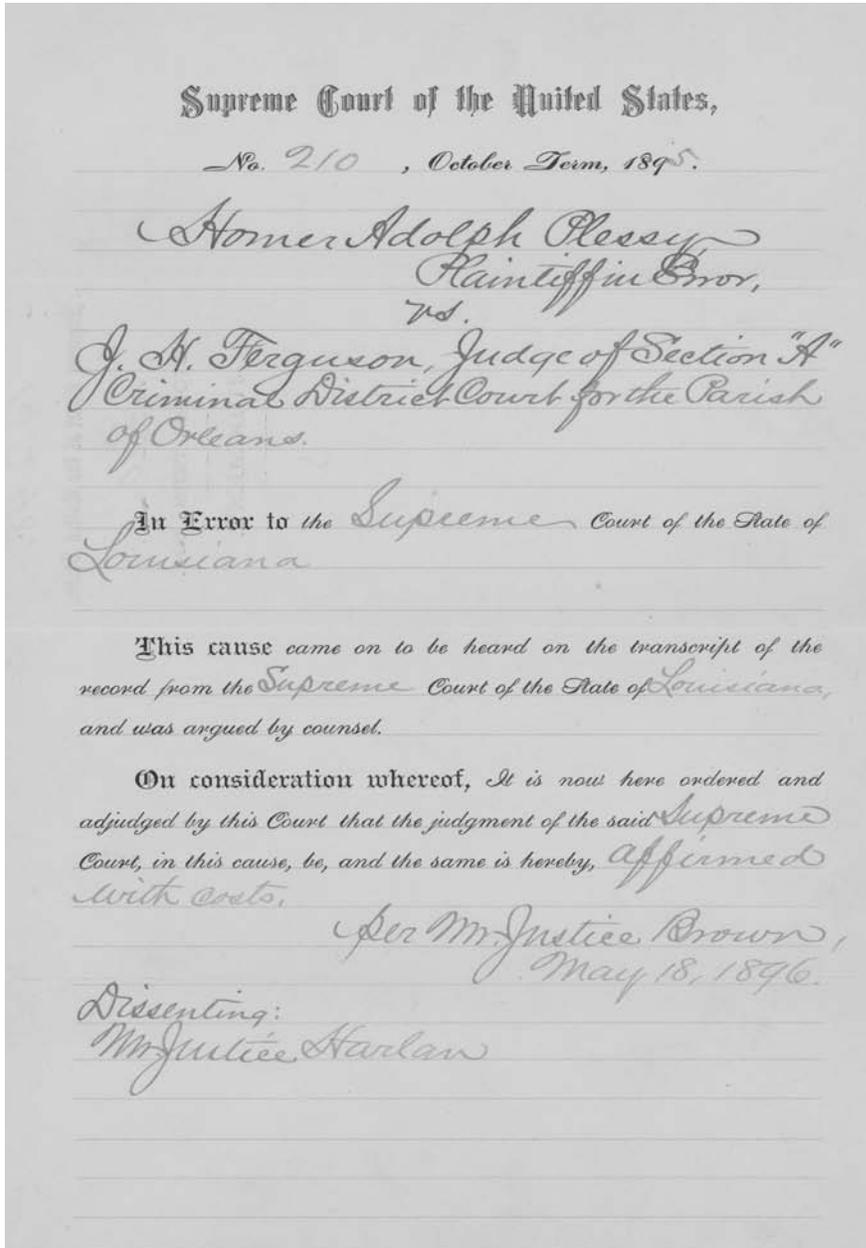
[Federal civil rights] legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would ... make congress take the place of the state legislatures and to supersede them.

It is absurd to affirm that, because the rights of life, liberty, and property ... are by the [Fourteenth] Amendment sought to be protected against invasion on the part of the state without due process of law, Congress may, therefore, provide due process of law for their vindication in every case; and that, because the denial by a state to any persons of the equal protection of the laws is prohibited by the amendment, therefore congress may establish laws for their equal protection.

- ▶ **Which level of government does this opinion imply has the power to correct state violations of rights to life, liberty and property?**

DOCUMENT J

Final Judgment, *Plessy v. Ferguson*, 1896



Courtesy National Archives. *Plessy v. Ferguson*, 163, #15248; Records of the Supreme Court of the United States; Record Group 267.

- ▶ What was Ferguson's title?
- ▶ Did the United States Supreme Court affirm or overturn the decision of the Louisiana court?

**Majority Opinion (6-1), *Plessy v. Ferguson*, 1896**

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....

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 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.

- ▶ **What kinds of laws does the Court say that state legislatures have the rightful power to pass?**
- ▶ **What does the Court say is the basic flaw in Plessy's argument?**
- ▶ **What does the Court argue about laws that try to abolish racial prejudices?**
- ▶ **Why is this decision said to have affirmed the doctrine of "separate but equal"?**

DOCUMENT L

Dissenting Opinion, *Plessy v. Ferguson*, 1896

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....

Sixty millions of whites are in no danger from the presence here of eight millions of blacks. 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.

- ▶ **What does the dissenting opinion mean by “Our constitution is color-blind”?**
- ▶ **What does the dissenting opinion claim is the “real meaning” of the Louisiana segregation law?**

DOCUMENT M

“At the Bus Station,” 1940



- ▶ How does this photograph from 1940 reveal the legacy of the *Plessy* decision?

DIRECTIONS

Answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

KEY QUESTION

Evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism.

THE ISSUE ENDURES

Brown v. Board of Education (1954)

The doctrine of “separate but equal” did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*....

Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other “tangible” factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education. ...Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

- ▶ **The Court acknowledges the growing “equality” of schools for blacks and whites. Why, then, will the Court overturn *Plessy*?**