

ISSUES OF THE GILDED AGE

Landmark Decisions of the Supreme Court: Can Separate Treatment Be Equal Treatment?***Plessy v Ferguson***

In 1891, Homer Plessy, a man who was part African American and part white, sat in a "whites only" railroad car. He was arrested for violating Louisiana state law. At trial, Plessy's lawyer argued that the state law mandating separate cars for whites and blacks was unconstitutional. Judge John Ferguson ruled against Plessy, and Plessy appealed the decision to the state and then to the U.S. Supreme Court. In 1896, the U.S. Supreme Court handed down its ruling in *Plessy v. Ferguson*. Justice Henry Brown delivered the opinion of the court, upholding a state's right to maintain segregated facilities:

"[T]he underlying fallacy of the plaintiff's argument [lies] in the assumption that the enforced separation of the two races stamps the [African American] race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because [African Americans choose] to put that construction upon it. . . . The argument also assumes that . . . that equal rights cannot be secured . . . except by an enforced [interaction between] the two races. . . . 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."

Only one justice disagreed with the majority decision. Justice John Marshall Harlan wrote this dissenting opinion:

"I am of the opinion that the statute of Louisiana is inconsistent with the personal liberties of citizens, white and black, in that State, and hostile to both the spirit and letter of the Constitution of the United States. If laws of like character should be enacted in the several States of the Union, the effect would be in the highest degree mischievous. Slavery as an institution tolerated by law would, it is true, have disappeared from our country, but there would remain a power in the States . . . to regulate civil rights common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens . . . for whom and by whom . . . our government is administered."

Plessy remained in effect until 1954, when the Supreme Court ignored it and declared segregation unconstitutional in the case of *Brown v. Board of Education*.

Directions: *On a separate sheet of paper, draw a political cartoon illustrating some aspect of the Plessy v. Ferguson ruling, the dissenting opinion, or both. Think about the reasons that each justice gives to explain his opinion.*

Hint: Remember that political cartoons often exaggerate the people, events, or ideas involved, and highlight the irony of a situation. Irony refers to an unexpected outcome. For example, it would be ironic for a fire station to burn down.