



February 19, 2018

## Black History - Plessy and Ferguson?

On June 7, 1892, Homer Plessy, a black man, was arrested for riding in a rail car reserved for white people. Homer intended to be arrested that day in an act of civil disobedience as he challenged the “Separate Car Act” of Louisiana. Separate Car Act was one of many laws that came to be known as “Jim Crow” laws.



Jim Crow laws mandated racial segregation in public facilities such as trains, buses, schools, restrooms, drinking fountains, restaurants, parks, etc. The laws were rationalized by a philosophy that blacks were to receive “separate but equal” treatment under the 14<sup>th</sup> Amendment of the U.S. Constitution. Unfortunately, the focus of the laws was on the “separate” rather than the “equal” aspects.

So Homer Plessy got himself intentionally arrested, and his case went to the Louisiana State Supreme Court. His claim, heard by Judge John Ferguson, was that “separate but equal” was not “equal” at all. He argued that treatment under the Separate but Equal clause was a violation of his rights under the Equal Protection Clause of the Constitution, which does not allow a state to deprive a person of life, liberty, or property. Homer’s case was a matter of loss of *liberty*.

Well, Judge Ferguson didn’t see it that way and ruled against Plessy in favor of the state of Louisiana. Plessy challenged Judge Ferguson’s ruling, taking his case all the way to the U.S. Supreme Court. Unfortunately, Plessy lost again when in 1896, the Court Justices upheld the “separate but equal” doctrine in the famous *Plessy v. Ferguson* case. While Plessy lost his appeal, his case established a significant legal foundation for future civil rights movements. Ultimately, Plessy would have been pleased that the U.S. Supreme Court reversed its course of the separate but equal doctrine, when in 1954, it ruled in *Brown v. Board of Education*. This case determined that racially segregated schools are “inherently unequal” and that segregation has no place in public schools.



In my mind, a significant historical lesson in these landmark legal cases is that the majority cannot separate out a minority class or group, as the act of separation creates unequal treatment. The Equal Protection Clause protects the promise that, “all men are created equal,” and states cannot deprive any person from equal protection under the law. Justice John Harlan, the lone dissenting voice in the *Plessy* decision wrote eloquently when he said, “Our constitution is color blind and neither knows nor tolerates classes among its citizens.” Socially, we have yet to catch up with Justice Harlan’s words.

Together forward,

**Postscript:** In my research for this message, it was heartening to find the Plessy & Ferguson Foundation. The Foundation was established by the great, great grand-children of Homer Plessy and Judge John Ferguson. The two families have joined together to provide civil rights education and outreach.

Keith Plessy and Phoebe Ferguson of the  
[Plessy & Ferguson Foundation](#)

