

Challenging Segregation in the Courts

Learning Objectives

- Understand the role of courts and the judicial branch in interpreting laws during the post-Reconstruction era in Louisiana.
- Learn the impact of racial segregation laws on Black Americans after Reconstruction.
- Think critically about the power of state laws versus federal laws after Reconstruction.
- Follow a series of court cases to understand precedents in the judicial process.
- Practice interpreting primary sources including laws, court decisions, and newspapers.

Introduction

In the late 1800s, white Southern Democrats tried to restrict the rights Black Americans gained during Reconstruction. State and local governments created racial segregation laws to separate Black Americans from white Americans in public spaces. Several Black Americans challenged these laws in courts at the local, state, and national level. This activity covers three court cases originating in Louisiana and their outcomes.

Primary source documents reveal: the burden of segregation laws on Black Americans; how Black citizens fought segregation through the judicial system; and the role of the courts in interpreting and upholding segregation laws after Reconstruction.

Overview

Case and Topic	Year	Relevant laws	Decision
<i>Hall v. Decuir</i> Segregated transportation between states	1877	<ul style="list-style-type: none"> • 14th Amendment (Federal) • Article 13, Louisiana State Constitution 1868 (State) 	Segregation permitted
Daniel Desdunes Segregated transportation between states	1892	<ul style="list-style-type: none"> • 14th Amendment (Federal) • Louisiana Separate Car Act, 1890 (State) 	Segregation NOT permitted
<i>Plessy v. Ferguson</i> Segregated transportation within a state	1896	<ul style="list-style-type: none"> • 14th Amendment (Federal) • Louisiana Separate Car Act, 1890 (State) 	Segregation permitted

Instructions

1. Read the 14th Amendment ratified July 9, 1868 and answer the questions.
2. In each of the following three sections on court cases challenging segregation, read the law relevant to each case and the outcome issued by the courts.
3. Answer the questions in each section.

*Optional: Split class into three groups. Have each group focus on one case (sections 1 through 3) and its relevant laws and decisions. Bring all groups together for a discussion in Section 4.

14th Amendment Text – Ratified July 9, 1868

“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.”

- A. Read the 14th Amendment carefully. Circle the key words that explain the purpose of the amendment.
- B. In your own words, what does the 14th Amendment say?

Section 1: The 1868 Louisiana Constitution and *Hall v. Decuir*, 1878

Josephine Decuir, a wealthy Black Creole woman, sued a steamboat captain when she was denied access to a first-class cabin because of her race. She was traveling from New Orleans to Hermitage, Louisiana, on a boat headed to Vicksburg, Mississippi. She argued that forced racial segregation on transportation was illegal according to the Louisiana State Constitution of 1868, Article 13.

Article 13, Louisiana State Constitution 1868

Art. 13.—All persons shall enjoy equal rights and privileges upon any conveyance of a public characters; and all places of business, or of public resort, or for which a license is required by either State, parish or municipal authority, shall be deemed places of a public characters, and shall be opened to the accommodation and patronage of all persons, without distinction or discrimination on account of race or color.

The Eighth District Court of New Orleans and the Louisiana Supreme Court ruled in favor of DeCuir, but the captain appealed to the U.S. Supreme Court. The federal court decided in favor of the captain, explaining that the Louisiana law banning discrimination on transportation did not apply to a steamboat traveling between multiple states. Read the passages from their decision:

Hall v. DeCuir, 95 U.S. 485 (1877)

“But we think it may safely be said that state legislation which seeks to impose a direct burden upon interstate commerce or to interfere directly with its freedom does encroach upon the exclusive power of Congress.”

“.. we think this statute, to the extent that it requires those engaged in the transportation of passengers among the states to carry colored passengers in Louisiana in the same cabin with whites is unconstitutional and void. If the public good requires such legislation, it must come from Congress, and not from the states.”

- A. Read Article 13 of the 1868 Louisiana State Constitution and the sections of the *Hall v. Decuir* decision. Circle key words that contribute to their meanings.

- B. Explain the decision of the U.S. Supreme Court in *Hall v Decuir* in your own words. Why did the court rule in favor of the steamboat captain?

- C. According to this court decision, what level of government was able to create legislation on racial segregation on interstate travel: state or federal? Why is that question important in this case?

Section 2: 1890 Louisiana Separate Car Act and Daniel Desdunes, 1892

After Reconstruction ended, the progressive 1868 Louisiana State Constitution was replaced in 1879. The 1879 constitution did not guarantee all races equal access to public transportation. In 1890, the Louisiana General Assembly passed the Separate Car Act which required train car passengers to be separated by race. A group of Black activists called the Citizens' Committee sent Daniel Desdunes to violate the law by sitting in a car for white passengers on a train from New Orleans, Louisiana to Mobile, Alabama. They intended to challenge the law in court.

AN ACT. Railway Companies Required to Furnish Separate Accommodations for White and Colored Persons.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all railway companies carrying passengers in their coaches in this State, shall provide equal but separate accommodations for the white and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodation; provided that this section shall not be construed to apply to street railroads. No person or persons shall be permitted to occupy seats in coaches other than the ones assigned to them on account of the race they belong to.

Desdunes was arrested, but the case never went to trial. Judge John Howard Ferguson dismissed the charges against Desdunes, on the grounds that a Louisiana state law could not enforce segregation on interstate travel. The Black-owned New Orleans newspaper *The Crusader* published this article on July 16, 1892:

JIM CROW IS DEAD.

The Jim Crow car is ditched and will remain in the ditch. Reactionists may foam at the mouth and Bourbon organs may squirm, but Jim Crow is dead as a door nail. Monday the case of Prof. D. F. Desdunes, arrested sometime ago on the L. & N.R. R. and charged with violating the separate car law, which Judge Marr had under advisement on a plea attacking the constitutionality of the law at the time of his disappearance in April last, was called up before his successor. After argument by Counsel Judge Ferguson overruled the State's demurrer to defendant's plea, holding the law, as applying to interstate passengers, unconstitutional. Thereupon the State's Attorney abandoned the prosecution, being satisfied that Desdunes' allegation that he was on his way to Mobile would be readily proved. It is well to remark here that the report of a morning paper that Desdunes had been incarcerated at the time of his arrest is totally incorrect. Mr. Desdunes was never in jail. He was bailed out as soon as arrested.

A. Read the Separate Car Act and the newspaper article about the outcome of the arrest. Circle the key words that explain the meaning of the law and the outcome of the case.

B. What are the differences between the Louisiana Separate Car Act and Article 13 of the 1868 Louisiana Constitution?

C. In what ways was the outcome of Daniel Desdunes's arrest different from the outcome of *Hall v. DeCuir*? How were the outcomes similar?

Citation:

"Jim Crow is Dead." *The New Orleans Crusader* (New Orleans, Louisiana), July 16, 1892. Held at Xavier University of Louisiana. *Jstor*. <https://www.jstor.org/stable/community.31024908>

Section 3: 14th Amendment, the Separate Car Act, and *Plessy v. Ferguson*, 1896

The Citizens' Committee was encouraged by their success in the Desdunes case. Next, they sent Homer Plessy to sit in a white only railcar on a train going from New Orleans to Covington, Louisiana. They intended to challenge segregation on trains traveling within the state of Louisiana by arguing that the Louisiana Separate Car Act violated the federal laws—the 13th and 14th Amendments. This time, Judge Ferguson ruled that Louisiana was permitted to segregate passengers by race within the state. Plessy appealed to the Louisiana Supreme Court, which upheld the lower court's decision, and then the U.S. Supreme Court. In the case *Plessy v. Ferguson* in 1896, the U.S. Supreme Court ruled that separating races into equal accommodations did not violate the 13th or 14th Amendments. This decision paved the way for future segregation laws. See the following excerpts from the majority opinion written by Justice Henry Billings Brown:

[*Plessy v. Ferguson*, 163 U.S. 537 \(1896\)](#)

“The statute of Louisiana, acts of 1890, c. 111, requiring railway companies carrying passengers in their coaches in that State, to provide equal, but separate, accommodations for the white and colored races... are not in conflict with the provisions either of the Thirteenth Amendment or of the Fourteenth Amendment to the Constitution of the United States.”

“The object of the 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.”

“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.”

- A. Read the excerpts from the decision in *Plessy v. Ferguson* and circle the key words that explain the decision.
- B. What was the reasoning of the U.S. Supreme Court for upholding the Louisiana Separate Car Act in *Plessy v. Ferguson*?
- C. Where in the decision do justices reference the power of state laws to segregate people by race?

D. In your own interpretation from reading primary texts, does the Louisiana Separate Car Act violate the 14th Amendment?

Section 4: Discussion

A. Compare the three cases and their outcomes.

B. How does each case interpret the role of federal and state power?

C. What was the role of the courts in upholding racial segregation laws during this period?