

Handout: Chapter 8 pp. 238-249

Plessy v. Ferguson

Majority Opinion: Separate Car Act not unconstitutional

1. The Separate Car Act does not violate the Equal Protection Clause because it is reasonable to separate races as long as accommodations equal.
2. If African Americans feel socially inferior it is their own fault the act does contribute to this feeling.
3. If provision for immunity for conductors removed the act does not violate the due process clause.

Dissenting Opinion: Separate Car Act unconstitutional

1. Rejected reasonableness claim, the act did violate the Equal Protection Clause, because constitution is “color blind” and it should be prohibited to allow any state to create racial distinctions.
2. Claimed laws like this act do lead to blacks being socially inferior and that this will lead to increased racial hatred.

Altman’s View: Better justification for ruling the Separate Car Act as unconstitutional

1. Justice Harlan should have attacked reasonableness claim from the position that the act would lead to increased racial hatred and that for this reason it is not justifiable to segregate the races.
2. Should have objected the use of social norms of the South by the majority justices because the amendments passed after the Civil War were created exactly to get rid of the old social norms of the South.
3. Should have attacked the fact that there was no evidence of the problem the act was supposed to be solving.
4. Should have supported argument by pointing at that the Civil War amendments were passed to prevent the state from acting upon racial supremacy. Therefore, the act was unreasonable and violated the Equal Protection Clause.

Brown v. Board of Education

Majority Opinion: Segregation of Public schools unconstitutional

1. Regardless of the views held in the 19th century the importance of public education has become a crucial duty and the racial segregation of the public schools violated this duty because of the psychological impact upon African American children.

Altman’s View: Better justification for ruling the segregation of public schools unconstitutional

1. Basing the opinion on a few studies was weak and not a strong enough justification for ruling against the “separate but equal” doctrine.
2. Placed the burden of proof in the wrong place. Instead of stating that the opponents of segregation have to show harm being done to children. The proponents of segregation should show reason for segregating the children, because this is the way the Civil War amendments should be interpreted based upon the same reasons given by Altman in the previous case, which would have gave the argument better justification.