

Keeping Them Apart:

Plessy v. Ferguson and the Black Experience in
Post-reconstruction America

A Unit of Study for Grades 8 -12

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NEGRO EXPULSION FROM RAILWAY CAR, PHILADELPHIA.

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Teacher Background

I. Unit Overview

This unit focuses on the African American experience in the critical years after Reconstruction. Using the landmark decision in *Plessy v. Ferguson* in 1896, the unit opens with an examination of conditions in black America during the post-Reconstruction years. Political opportunities or lack thereof; economic and class status; as well as social interaction will be illustrated through documentary material. In the *Plessy* case, the Supreme Court interpreted the Fourteenth Amendment guarantees of due process and equal protection to mean that "separate but equal" facilities could be provided on the basis of race.

By examining the Supreme Court's reasoning in *Plessy* within the historical context of the period, the student will be able to evaluate the successes and the failures of Reconstruction. Furthermore, by examining the Court's decision itself, students can investigate the nature of judicial review through an example of constitutional interpretation that stands in sharp contrast to the judicial activist character of the Warren Court's decision in *Brown v. Board of Education* nearly sixty years later. This unit challenges students to see the relationship between law and society and how prejudice works.

II. Unit Context

This unit should be the concluding chapter of the story of Reconstruction to show the effects of the abandonment of federal Reconstruction. It could be used as a direct linking unit to the "Gilded Age" or "Progressivism," or as a background and introduction to the civil rights movement of the 1940s and 1950s.

III. Unit Objectives

1. To evaluate the conditions of African Americans in the North and South between 1875 and 1900 using documentary and statistical evidence.
2. To analyze successes and failures of Reconstruction for freedmen.
3. To identify *Plessy v. Ferguson* as an organized resistance by African American leaders to segregation laws in the South.
4. To examine the Supreme Court's reasoning in its decision and contrast it with Justice Harlan's minority opinion.
5. To identify and discuss the concept of judicial review and its importance in American constitutional government.

IV. Correlation to National History Standards

Keeping Them Apart: Plessy v. Ferguson and the Black Experience in Post-Reconstruction America provides teaching materials to support the National Standards for History, Basic Edition (National Center for History in Schools, 1996), Era 6, “The Development of the Industrial United States (1870-1900).” Lessons within this unit assist students in attaining **Standard 2B** by analyzing the role of new laws and the federal judiciary in instituting racial inequity.

This unit likewise integrates a number of Historical Thinking Standards. Students are challenged to examine a variety of evidence and reconstruct the literal meaning of a historical passage; to draw comparisons across in order to define enduring issues; to explain historical continuity and change; to obtain historical data from a variety of sources and uncover the social, political, and economic context in which it was created; and to evaluate the implementation of a decision by analyzing the interests it served and assessing the effects of the decision from a variety of perspectives.

V. Introduction to *Keeping Them Apart: Plessy v. Ferguson and The Black Experience In Post-Reconstruction America*

Congressional Reconstruction of the southern states after the Civil War was undertaken by Congress when the former slaveowners appeared unwilling and unable to give up slavery. Northerners were angry when southern whites passed “black codes” in 1865 designed to maintain African Americans in a regulated laboring class based on color. The Radical Republicans then used the Freedmen’s Bureau and the United States Army to suppress the codes and the Ku Klux Klan. After the southern states fulfilled requirements set by Congress to regain full rights in the republic, whites once again passed many laws by the 1890s that submitted African Americans to the racial regime of “Jim Crow.”

Southern Democrats, who had taken control of state governments following Reconstruction, presented constant pressures on African American voters in the South. Despite attempts to reduce the political influence of African Americans, many African Americans voted and some held high office in southern states through the 1890s. The National Republican Party under its northern leaders stopped safeguarding African American voters. At the same time, conservative Southerners were deeply worried that white Populists were actively surmounting their heritage of racism and appealing to African Americans. The conservatives raised the cry of “Negro domination” and pollution of the white race. These men succeeded in passing highly restrictive literacy requirements for the right to register to vote. The laws were designed to allow many poor and illiterate whites to vote but not African Americans. Southern unions excluded African Americans. The lynching of African Americans became a serious problem again, as it had been immediately after the Civil War. African American schools were poorly funded. “Jim Crows” became even more extensive than the laws on the books suggest.

The Supreme Court declared its unwillingness to protect the civil rights of African Americans. In 1883, it nullified the main provisions of the last legislative act of the Reconstruction era, the Civil Rights Act of 1875, which had given equal rights to the use of inns, public transportation, theaters,

and other public facilities. This was only one of many similar decisions that permitted the construction of a deeply discriminatory regime.

In 1890, when the railroad act was passed, sixteen African American Congressmen remained in the Louisiana legislature. Once the *Plessy* decision was upheld by the Supreme Court, the number of registered African American voters in Louisiana plummeted from 130,334 in 1896 to 1,342 in 1904. African Americans no longer voted or held office anywhere in the South. Thus, they were unable to fight Jim Crow through the legal process.

V. Lesson Plans

1. The Case of Homer Plessy
2. *De Jure* and *De Facto* Discrimination
3. A Courtroom Simulation