



Volume 1, Issue 3

July 30, 2021

By: *Madison Peterson-Porta*

Remembering Plessy v. Ferguson

On May 18, 2021, *Plessy v. Ferguson* turned 125 years old. The landmark 1896 U.S. Supreme Court decision upheld the constitutionality of racial segregation under the umbrella of the “separate, but equal” doctrine, which was constitutional until its eventual overturning almost 58 years later on May 17, 1954. At the dawn of the Civil Rights movement, in *Brown v. Board of Education*, Supreme Court Justice Warren wrote, “In the field of public education the doctrine of ‘separate but equal’ has no place.” As a country and as New Orleanians, we still deeply feel the effects of *Plessy* in spite of the *Brown* decision that overturned legal segregation.

The *Plessy* case has a unique fact pattern in that Defendant Plessy intentionally violated Louisiana’s Separate Car Law, a move carefully orchestrated by the Citizens’ Committee to Challenge the Constitutionality of the Separate Car Law, or the Comite des Citoyens. “The Committee,” for short, was comprised of prominent mixed-race Creoles and Black associates in New Orleans who were outraged by Louisiana’s Separate Car Law. The 1891 law mandated “equal but separate accommodations for the white and colored passengers” traveling on trains throughout the state. The Committee’s very active leader and the editor of the *New Orleans Crusader*, a Creole and Black newspaper, was a name that today’s legal community in our city should know very well, Louis A. Martinet.

LOUIS A. MARTINET

Louis A. Martinet was the first African American graduate of Straight University Law School (Dillard University) in 1876.

Louis A. Martinet passed the Louisiana Bar Exam in 1875.

Louis A. Martinet was integral in orchestrating Homer Plessy’s arrest.

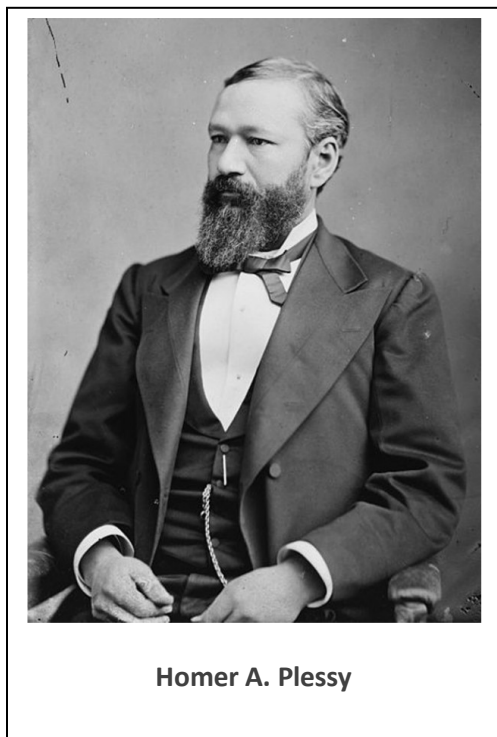
The Louis A. Martinet Legal Society was founded on May 13, 1957 and named after Louis A. Martinet.

Today’s Martinet society actively works with the Black Law Student’s Association at Tulane and Loyola’s law school.



Louis A. Martinet

Martinet, chose Homer Plessy, a 29-year-old mixed-race shoe-maker, a man who described himself as “seven-eighths Caucasian and one-eighth African blood” as the perfect plaintiff to challenge this law. Plessy blended in with the other fair-skinned French-speaking free persons of color who occupied the Faubourg Treme neighborhood, and Plessy represented the French-speaking Creoles who were distressed at the thought of losing any more of their wealth, education or social status which they saw slipping away with Louisiana’s Separate Car Law. Simply put, Plessy was an ideal candidate for arrest because he was a man who looked white, passed for white, and cast shade on the ability of a conductor and therefore anyone to guess a passenger’s race. And the railroad companies, not eager to spend additional money on separate cars if they didn’t have to, agreed to go along with the Committee’s plan.



On June 7, 1892, Plessy bought a ticket for a train, bound from New Orleans to Covington, Louisiana, sitting in a whites-only car and refusing to move himself even at the conductor’s insistence. Plessy was arrested and convicted by a New Orleans court under this law. In 1896, he found himself in front of the U.S. Supreme Court on a claim that the Separate Car law violated the 14th Amendment and the Equal Protection Clause.

On May 18, 1896 the Supreme Court delivered the verdict in *Plessy v. Ferguson* declaring that the “separate, but equal” doctrine was constitutional for the intrastate rail system and that 14th Amendment protections did not apply to social rights, such as sitting in a train car. The sole dissenter in the case was Justice John Marshall Harlan, a former Kentucky slaveholder

who had opposed the emancipation of freed slaves and civil rights during the Reconstruction era. Justice Harlan, however, had changed his position in outrage after the actions of the Ku Klux Klan. Harlan famously said about this law: “The arbitrary separation of citizens on the basis of race while they are on a public highway is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. It cannot be justified upon any legal grounds.”

For almost 60 years, the decision upheld in *Plessy v. Ferguson* fueled a culture of segregation and violence. Jim Crow laws in the South, residential housing segregation in the

North, and a culture of violence flourished. The struggle of Black Americans and the impact of segregation can still be seen today. A different outcome in *Plessy* could have led to sweepingly different changes that would have positively aided countless African-American and mixed-race people's lives over the decades since the Supreme Court's decision. What was not seen as a landmark case in 1896 has haunted the U.S. through decades of discriminatory laws, violence and physical, economic and social subrogation for non-whites. A case like *Plessy* needs to be remembered, especially in our home state where the decision occurred, because it is a reminder of how powerful and far-reaching holdings in our courts can be and are.

New Orleans in 1896 was the city that cemented the 'separate but equal' doctrine at the time, but it is also the city that housed a community of mixed-race citizens and Creoles that lived and worked together in a way no other city in the U.S. had at the time. And so, like every other city, it has a history, both good and bad, and both should be remembered.

