

## Reconstructions: Frederick Douglass, Albion Tourgée, and *Plessy v. Ferguson*

Robert S. Levine  
University of Maryland

This essay explores the sometimes similar and sometimes different (though generally complementary) views on Reconstruction of Douglass and Tourgée, moving to their key point of divergence: the *Plessy v. Ferguson* case. The Douglass-Tourgée relationship was more significant than Douglass biographers have recognized. Douglass appears in Tourgée scholarship; Tourgée has virtually no place in Douglass scholarship. That's a surprising asymmetry because Tourgée, at the request of African American leaders in Boston, delivered the eulogy for Douglass at the celebrated Faneuil Hall memorial the year of his death. It is worth noting as well that in 1906, a year after Tourgée's death, thousands of participants in W. E. B. Du Bois's Niagara Movement held a memorial service for what were termed the three "friends of freedom": William Lloyd Garrison, Douglass, and Tourgée.<sup>1</sup> Readers of *The New North Star* know a good deal about Garrison; Tourgée is probably more obscure. For that reason, it would be useful to begin with a few words on this fascinating figure.

Tourgée's dates are 1838–1905, so he is twenty years younger than Douglass. Born in Ohio, Tourgée briefly attended the University of Rochester, withdrew to serve in the Union Army, and was twice badly wounded in Civil War battles. While recuperating, he read the law, served an apprenticeship as a clerk at an Ohio law firm, and gained acceptance to the Ohio bar by war's end. During the years 1865–1879 he worked for Reconstruction in North Carolina as a member of the state constitutional convention and as a judge, speaking out against the Ku Klux Klan and other White supremacist terrorist organizations. He also began writing novels about Reconstruction. The year he moved from North Carolina to New York he published his most popular novel, *A Fool's Errand: By One of the Fools* (1879), which sold over 300,000 copies. He published a total of twelve novels, most of which link the failure of Reconstruction to what he repeatedly termed the problem of racial caste. In 1891 he founded the National Citizens' Rights Association, and a year later he became the lead counsel representing Homer Plessy's and other African Americans' efforts to end racial segregation in Louisiana. In 1896 he presented legal arguments before the United States Supreme Court in the *Plessy v. Ferguson* case; the Court ruled against Plessy (and Tourgée), establishing the "Separate but Equal" principle that held up until the Supreme Court's *Brown v. Board of Education* ruling of 1954.<sup>2</sup>

To turn now to Douglass and Tourgée: With respect to "Reconstructions," we can say that in the early years of Reconstruction, Douglass attempted to influence federal policy while Tourgée, who was always interested in policy, saw the need for on-the-ground work in the South. Douglass focused his efforts on gaining the vote and citizenship for African Americans. In a number of speeches delivered at the outset of the Civil War, in his famous speech "The Mission of the War" (1863), in his statements at a Black convention in Syracuse in 1864, and then in remarks he made

---

<sup>1</sup> See Otto H. Olsen, *Carpetbagger's Crusade: The Life of Albion Winegar Tourgée* (Baltimore, Md.: Johns Hopkins University Press, 1965), 19–20.

<sup>2</sup> For excellent biographical studies of Tourgée, see Mark Elliott, *Color-Blind Justice: Albion Tourgée and the Quest for Racial Equality, From the Civil War to Plessy V. Ferguson* (New York: Oxford University Press, 2006); and Carolyn L. Karcher, *A Refuge from His Race: Albion W. Tourgée and His Fight against White Supremacy* (Chapel Hill, N.C.: University of North Carolina Press, 2016). On Tourgée and *Plessy v. Ferguson*, see Steve Luxenberg, *Separate: The Story of Plessy V. Ferguson, and America's Journey from Slavery to Segregation* (New York: W. W. Norton, 2019).

virtually every day of the Andrew Johnson administration, Douglass again and again said something to this effect: “Slavery is not abolished until the black man has the ballot.” (Douglass offered these precise words at the May 1865 meeting of the American Anti-Slavery Society.<sup>3</sup>) Douglass celebrated the adoption of the Fifteenth Amendment in 1870 as the fulfillment of one of the main goals of his Reconstruction efforts, and he would continue to fight for Black civil rights when he saw those rights threatened by reactionary racists in the South and North and by legal developments such as the Supreme Court’s 1883 ruling that the Civil Rights Act of 1875 was unconstitutional, a decision foreshadowing Plessy.

Tourgée shared Douglass’s desire for Black enfranchisement, which he sought to bring about in North Carolina even before the adoption of the Fifteenth Amendment. He helped to write a progressive North Carolina constitution, which did not last all that long, and he presided over numerous court cases involving the freedpeople as they attempted to establish themselves as a truly freed people. He mediated employment and other disputes, often working in tandem with the Freedmen’s Bureau. But because he was based in North Carolina, he also experienced firsthand the resistance to Reconstruction among the state’s White people. He saw racism everywhere, and he also saw Whites’ commitment to racial caste: the belief that Blacks should stay in their place at the bottom of the social hierarchy. He abhorred that point of view, but he became increasingly angry at the Radical Republicans for believing they could quickly and easily establish Blacks’ full rights as citizens in North Carolina and elsewhere.

Tourgée gave novelistic life to his thinking about racial caste in his bestselling novel, *A Fool’s Errand*. The fool is a character named Comfort Servosse, a man who, like Tourgée, is a northerner who journeys to North Carolina to promote social change via legislation and the judicial system. By the end of the novel, Servosse/Tourgée comes to see, in the increasingly violent reactions of the White North Carolinians, that he had been naïve—or, in the terms of the novel, a Fool—for believing that Southern Whites were prepared to accept in relatively short order a radically reconstructed South. Servosse remarks, for example, that Radical Republican leaders failed to realize that “the idea of generations do not perish in an hour,” and that in terms of caste, Southern Whites’ racist beliefs ran “as deep and fervent as the exclusiveness of Hindoo caste.” As Servosse writes to Radical Republicans leaders near the end of the novel: “You do not seem to appreciate the fact, which all history teaches, that there is no feeling in the human breast so intense and ineradicable in its nature, as the bitter scorn of a long dominant race for one they have held in bondage. This embraces no element of individual or personal dislike, but is simply utter and thorough disgust and scorn for the race,—except in what they consider its proper place.”<sup>4</sup> All this said, Tourgée remained committed to helping southern Blacks obtain their full rights as citizens, and to that end he decided in the early 1890s to represent Homer Plessy in his challenge to racial segregation in Louisiana’s railway cars.

---

<sup>3</sup> Frederick Douglass, “In What New Skin Will the Old Snake Come Forth? An Address Delivered in New York, New York, on 10 May 1865,” in John Blassingame et al., *The Frederick Douglass Papers*, Series 1: *Speeches, Debates, and Interviews*, 5 vols. (New Haven, Conn.: Yale University Press, 1979–1991), 4:83.

<sup>4</sup> Albion W. Tourgée, *A Fool’s Errand*, ed. George M. Fredrickson (1879; New York, N.Y.: Harper Torchbooks, 1966), 140, 137, 167. For a provocative discussion of caste in U.S. history, see Isabel Wilkerson, *Caste: The Origins of Our Discontents* (New York, N.Y.: Random House, 2021); and on caste in Tourgée’s writings, see Robert S. Levine, “Isabel Wilkerson, Albion Tourgée, and the Problem of Caste in the United States,” *Literary Imagination* 23, no. 2 (2021), 151–60. On the literary Tourgée, see Sandra M. Gustafson and Robert S. Levine, eds., *Reimagining the Republic: Race, Citizenship, and Nation in the Literary Work of Albion W. Tourgée* (New York, N.Y.: Fordham University Press, forthcoming 2023).

Before turning to *Plessy v. Ferguson*, it is worth noting that Douglass shared some of Tourgée's views on the long history of racial caste in the United States. Douglass wanted radical change, but he was aware that change would require a struggle and might not be permanent. Even as Douglass in the years immediately after the Civil War fought for the full rights of citizenship for African Americans, he declared in 1868: "There is no such thing as instantaneous emancipation. The links of the chain can be broken in an instant, but it will take not less than a century to obliterate all traces of the institution." In 1870 he said that the passage of the Fifteenth Amendment was not a miracle; the true miracle would be to "obliterate all traces of 250 years of slavery." In 1877, the year that some regard as a marker of the end of Reconstruction, Douglass referred to the "footprints" of slavery, which he maintained could be seen "in the general exercise of force and cruelty" against Black people.<sup>5</sup> Unlike Tourgée, Douglass, despite these insights, thought it best to put Reconstruction measures in place forcefully and promptly.

We can now jump forward to 1895, the year of Douglass's death. Douglass died in February, and the memorial service was held at Boston's Faneuil Hall in December with Tourgée as the main eulogist. The memorial proceedings appeared a few months later in 1896. As would be expected, much of what Tourgée had to say about Douglass in his two-hour speech was adulatory. He stated, for example, that "FREDERICK DOUGLASS must be ranked among the great men of a great day; if by obstacles to be overcome, he must be accounted the greatest of any time." Tourgée also shared an anecdote about how he had met Douglass in the mid-1850s at an abolitionist rally in Ohio. Someone standing near the teen-aged Tourgée hit Douglass with a tossed egg, and Tourgée couldn't resist laughing. The next day he requested a meeting with Douglass in order to apologize for his rudeness. Douglass told him about his regular encounters with violent behavior and insults; Tourgée in the eulogy refers to this meeting as a "rough beginning" to their relationship.<sup>6</sup>

Tourgée's eulogy also comments on his own interest in racial caste, stating, for example, that "the destruction of slavery had only unmasked the other and more difficult problem of Caste."<sup>7</sup> Whites in the South, as he learned from his fourteen years in North Carolina, had difficulties viewing Black people as anything other than an inferior class of subordinates.

In the closing section of the eulogy, Tourgée takes a surprising turn, raising questions about whether the great man in his final years at his Cedar Hill mansion still cared about the cause of Black rights. This was a strange charge, given that we know Douglass continued to be politically active and lecturing regularly against the scourge of lynching. But consider what Tourgée has to say in his eulogy. After praising Douglass, Tourgée charged that the renowned Black leader in the years after the Civil War "found himself, in sentiment and feeling, much nearer to the most refined white society of the North than to the 'freedmen' of the South." I suspect that Tourgée, who interacted with the freedpeople during his time in North Carolina, wondered about Douglass's commitment to ordinary Black people, especially as Douglass became increasingly rich and famous. Near the end of the eulogy, Tourgée remarks that Douglass was taken aback by the

---

<sup>5</sup> Douglass, "Addresses Delivered in New York, New York, on 14 May 1869," Blassingame, *Douglass Papers*, ser. 1, 4:174; Douglass, "Seeming and Real," *New National Era*, 6 October 1870, in the *Life and Writings of Frederick Douglass: Volume IV: Reconstruction and After*, ed. Philip S. Foner (New York, N.Y.: International House, 1955), 299; Douglass, "Our National Capital: An Address Delivered in Baltimore, Maryland, on 8 May 1877," Blassingame, *Douglass Papers*, ser. 1, 4: 467, 456. This paragraph draws from my *The Failed Promise: Reconstruction, Frederick Douglass, and the Impeachment of Andrew Johnson* (New York: W. W. Norton, 2021), 227–28.

<sup>6</sup> "The Eulogy of Albion W. Tourgée," *A Memorial of Frederick Douglass from the City of Boston* (Boston: Printed by Order of the City Council, 1896), 27, 31.

<sup>7</sup> "Eulogy of Albion W. Tourgée," 61.

“difficult problem of Caste,” by his realization that the end of slavery did not mean that the fight for racial equality was over. At a memorial honoring Douglass, Tourgée proclaimed that “there was something pathetic in the feeling of disappointment which came over Mr. DOUGLASS as he realized this fact.” Douglass, Tourgée concludes, decided that “other hands must forge the new weapons. Other hearts must bear the burden.”<sup>8</sup>

In Tourgée’s eulogy, then, the big takeaway is that the great man was not so great after all. What is the source of the disillusionment informing the closing section of a speech that ultimately misrepresents Douglass in his final two decades? I would suggest that it is Tourgée’s anger about Douglass’s response to the Plessy case.

Most biographers and critics assume that Douglass would have been deeply angered by the Supreme Court’s 1896 ruling on *Plessy v. Ferguson*. That ruling occurred a year after Douglass’s death. Perhaps for that reason, Benjamin Quarles, William McFeely, and David Blight have nothing to say about the case in their respective biographies. But the Plessy case began in earnest in 1892, three years before Douglass’s death. What did Douglass think of the case? He would appear to have had mixed feelings about the wisdom of taking it on.

Some background on Plessy: Homer Plessy was a light-complected African American who attempted to board the Whites-only section of a New Orleans railway car. He did that deliberately, at Tourgée’s suggestion, working with a committee of Black and White activists who sought to challenge a law passed in Louisiana in 1890 mandating separate railway cars for Whites and Blacks. Plessy bought a ticket on a train departing from New Orleans on 7 June 1892 and took a vacant seat in a Whites-only car. After refusing to leave the car at the conductor’s insistence, he was arrested and jailed. Convicted by a New Orleans court for breaking the 1890 law, Plessy filed a petition against the presiding judge, John H. Ferguson, claiming that the law violated the Equal Protection Clause of the Fourteenth Amendment. Tourgée, his pro-bono lawyer, eventually argued the case before the U.S. Supreme Court. Central to his argument was his interest in caste, for he sought to show that race had become a form of property, with Whiteness being worth much more than Blackness because of the existence of racial hierarchies. The Supreme Court ruled against Tourgée and Plessy on a vote of 7–1, with one judge absent and John Marshall Harlan offering the sole dissent.<sup>9</sup>

Douglass died before this decision, but he knew about the case because Tourgée and others had reached out to him for his support. Some of these interactions can be reviewed from the Tourgée side; more needs to be recovered from the Douglass side.

Tourgée’s National Citizens’ Rights Association, which would adopt the Plessy case as its leading cause, consisted of Black southerners, Black northerners, and White northerners. Among the problems the group faced were a lack of money and limited support from Black northerners. But they did have considerable support from southern Blacks, chief among them the Afro-Creole Louis A. Martinet, a Louisiana-based newspaper editor whose paper, the *New Orleans Crusader*, led the battle against Jim Crow segregation that had prompted Tourgée to form his rights

---

<sup>8</sup> “Eulogy of Albion W. Tourgée,” 58, 61, 62. On Douglass and Cedar Hill, see David W. Blight, “Cedar Hill: Frederick Douglass’s Personal Civil War Museum for a Public Man,” in *Civil War Places: Seeing the Conflict through the Eyes of Its Leading Historians*, ed. Gary W. Gallagher and J. Matthew Gallman (Chapel Hill: University of North Carolina Press, 2019), 144–51.

<sup>9</sup> For an excellent casebook, with superb critical analysis, see *Plessy v. Ferguson: A Brief History with Documents*, ed. Brook Thomas (Boston: Bedford Books, 1996).

association in the first place. Martinet and Tourgée worked together on the Plessy case, and Tourgée soon came to see this particular case as the main cause of his new organization.<sup>10</sup>

Convinced of the importance of the case, both Martinet and Tourgée reached out to Douglass for support, but to no avail—and they were angry about that. Martinet expressed his ire at Douglass in his newspaper, the New Orleans *Crusader*; arguably Tourgée expressed his anger at Douglass in his eulogy. In an article in the 1892 *Crusader*, Martinet bitterly remarked that “Negro Leaders—national leaders” failed to offer their support for the Plessy case, and he said those leaders included Douglass, whom he bitterly and ironically called “the greatest of all Negroes.” Martinet speculates in the article that Douglass failed to offer his support because he assumed Plessy would lose. Douglass, he implies, only backs winners. By the end of his article, Martinet lost his cool, declaring that Douglass was “unpardonably ignorant . . . of the constitutional rights of his race.”<sup>11</sup>

Shortly after publishing this piece, Martinet wrote Tourgée to complain that Douglass made their efforts to defend Plessy “still harder.” He also claimed that his own Plessy committee, called the Citizens Committee, had written Douglass for his backing, and in his response, according to Martinet, Douglass “childishly reprimanded” him for addressing the envelope to “the Hon. Fred Douglass.” (That letter is no longer extant.) Martinet reported to Tourgée as follows: “His name was Frederick Douglass, he said, and he expressed his disapproval of the project.” Douglass refused to give aid, according to Martinet, because “he saw no good in the undertaking.”<sup>12</sup> Is that what Douglass really stated in the letter? We don’t know, but it can be noted once again that nothing about this exchange makes its way into any of the Douglass biographies.

Meanwhile, Tourgée responded to Martinet with veiled and not so veiled references to Douglass. Tourgée referred to Blacks who “are so intoxicated with the idea of being ‘leaders’ that I fear they are willing to sell their brethren into Egypt for the tinsel of a cheap notoriety.” Exasperated by Douglass, Martinet responded (nastily and unfairly) with his own attack on those Black leaders who “*have grown rich in fighting the race’s battles.*”<sup>13</sup> Around this time Tourgée began working with Ida B. Wells and Douglass on the 1893 pamphlet *The Reason Why the Colored American Is Not in the World’s Columbian Exposition*, authoring the chapters titled “The Convict Lease System” and “Class Legislation.” The odds are that he met with Douglass at the 1893 Columbian Exposition. Tourgée biographer Mark Elliott believes that Tourgée and Douglass probably also met at the Republican National Convention in 1892, and he assumes that they discussed the Plessy case. A letter of 8 June 1892 from Tourgée to Douglass, written during that 1892 convention (just a day after Plessy’s arrest), shows Tourgée reaching out to the Black leader:

[Chicago, Ill. 8 June 1892.]

Hon. Fred. Douglas [sic]

DEAR SIR:

I should have called to see you yesterday, but am not able to get about much

---

<sup>10</sup> See Carolyn L. Karcher’s excellent “Albion W. Tourgée and Louis A. Martinet: The Cross-Racial Friendship behind *Plessy v. Ferguson*,” *MELUS* 38, no.1 (2013), 9–29.

<sup>11</sup> Qtd. in Luxenberg, *Separate*, 434. Luxenberg gives the probable date of the article as 16 July 1892.

<sup>12</sup> From a letter of July–August 1892 from Martinet to Tourgée, qtd. in Luxenberg, *Separate*, 435.

<sup>13</sup> Tourgée to Martinet, undated (but probably late 1891 or early 1892), and Martinet to Tourgée, letter of 4 July 1892, qtd. in Karcher, *A Refugee from His Race*, 169.

because of the old wound.

I am especially working here in behalf of the right of the citizens of the United States in the various states. It seems to us that the time is ripe to declare that a man who is not free every where, is free nowhere. I enclose our memorial and hope ye I may see you before I leave[.]

Yours truly

ALBION W. TOURGÉE<sup>14</sup>

We don't know if the two actually met at that time. (Tourgée's struggles with his old Civil War wounds may have made that impossible.) We also don't know if Douglass read the literature Tourgée sent him (which was almost certainly about the National Citizens' Rights Association's challenge to Louisiana's segregationist railway law); and we don't know if Douglass even received the letter. We do know from Martinet that Douglass chose not to support the work of Tourgée or Martinet. Martinet wrote a friend about Douglass: "Of course, we were not after his money . . . we wanted his endorsement and moral support rather."<sup>15</sup> But surely he would have been happy to have received some of his money, too.

Douglass's decision not to offer financial or moral support to Tourgée's and Martinet's committees remains something of a mystery in need of fuller explanation. Did Douglass have personal problems with Martinet's aggressive style? Did he feel distant from the Blacks of Louisiana? Had he become as elitist as Martinet and Tourgée suggest? Did he see the writing on the wall for the Plessy case and think it was a mistake to have provoked the legal issue? As is evident from Douglass's 1892 edition of *Life and Times of Frederick Douglass*, he kept a close eye on the workings of the Supreme Court. His anger at its 1883 overturning of the 1875 Civil Rights Act in some ways inspired him to revise and extend the 1881 version of his final autobiography. What we can say is that Douglass's and Tourgée's Reconstructions had some key differences in emphasis, but overall these two great leaders were in sync and probably even inspired one another. But in the final years of Douglass's life, they would appear to have had a different understanding of what the still ongoing work of Reconstruction required.

---

<sup>14</sup> Albion Tourgée to Frederick Douglass, 8 June 1892, General Correspondence File, Frederick Douglass Papers, Library of Congress.

<sup>15</sup> Martinet to Tourgée, letter of 4 July 1892, qtd. in Elliott, *Color-Blind Justice*, 274.