Supplementary Material

Chapter 7: The Republican Era—Equality/Race/The Birth of the Civil Rights Movement

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Guinn and Beal v. United States, 238 U.S. 347 (1915)

Frank Guinn and J.J. Beal were state election officials. In July 1910, the Democrats in Oklahoma passed a constitutional amendment requiring all voters to pass a literacy test. That provision granted an exemption to all descendants of any person who had a right to vote on or before January 1, 1866. As of 1900, only fifty-seven of the 55,684 African-Americans in Oklahoma met that standard. Republicans in Oklahoma, who had good reason for thinking that African-Americans held the balance of power in state elections, urged the Taft administration to take action. When the Taft Administration declined, local Federal attorneys forced the issue. They arrested Guinn and Beal for implementing the "Grandfather Clause" and charged them with violating federal voting laws. Guinn and Beal were convicted by the trial court. They appealed to the Supreme Court of the United States.

Constitutional politics remained intense while the Guinn *case was before the Supreme Court. Many observers believed that the newly elected Wilson administration, which was committed to segregating the nation's capital, would drop the appeal. Instead, the administration aggressively argued the case. They were joined by the newly formed National Association for the Advancement of Colored People (NAACP). Moorfield Storey, one of the most prominent attorneys of the time, wrote an amicus brief for the NAACP which declared,*

> *The purpose and effect of such amendments as this have been openly avowed, and there is not an intelligent man in the United States who is ignorant of them. If it is possible for an ingenious scrivener to accomplish that purpose by careful phrasing, the provisions of the Constitution which establish and protect the rights of some ten million colored citizens of the United States are not worth the paper on which they are written, and all constitutional safeguards are weakened.*

The Supreme Court in Guinn and Beal v. United States *declared the Grandfather Clause unconstitutional. Chief Justice White's unanimous opinion ruled that the Fifteenth Amendment forbade both laws that made explicit discriminations against persons of color and laws that, while making no mention of race on their face, were clearly designed to discriminate against persons of color.* Guinn *was the first Supreme Court in many years to declare a state voting law unconstitutional. What explains that development? Was the White Court more racially liberal than previous courts or was the grandfather clause a more egregious form of discrimination than previous discriminations?*

CHIEF JUSTICE WHITE delivered the opinion of the court

. . . [H]ow can there be room for any serious dispute concerning the repugnancy of the standard based upon January 1, 1866 (a date which preceded the adoption of the Fifteenth Amendment), if the suffrage provision fixing that standard is susceptible of the significance which the Government attributes to it? Indeed, there seems no escape from the conclusion that to hold that there was even possibility for dispute on the subject would be but to declare that the Fifteenth Amendment not only had not the self-executing power which it has been recognized to have from the beginning, but that its provisions were wholly inoperative, because susceptible of being rendered inapplicable by mere forms of expression embodying no exercise of judgment and resting upon no discernible reason other than the purpose to disregard the prohibitions of the Amendment by creating a standard of voting which on its face was, in

substance, but a revitalization of conditions which, when they prevailed in the past, had been destroyed by the self-operative force of the Amendment.

. . . The provision is this:

> But no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such constitution.

We have difficulty in finding words to more clearly demonstrate the conviction we entertain that this standard has the characteristics which the Government attributes to it than does the mere statement of the text. It is true it contains no express words of an exclusion from the standard which it establishes of any person on account of race, color, or previous condition of servitude prohibited by the Fifteenth Amendment, but the standard itself inherently brings that result into existence, since it is based purely upon a period of time before the enactment of the Fifteenth Amendment, and makes that period the controlling and dominant test of the right of suffrage. In other words, we seek in vain for any ground which would sustain any other interpretation but that the provision, recurring to the conditions existing before the Fifteenth Amendment was adopted and the continuance of which the Fifteenth Amendment prohibited, proposed by, in substance and effect, lifting those conditions over to a period of time after the Amendment to make them the basis of the right to suffrage conferred in direct and positive disregard of the Fifteenth Amendment. And the same result, we are of opinion, is demonstrated by considering whether it is possible to discover any basis of reason for the standard thus fixed other than the purpose above stated. We say this because we are unable to discover how, unless the prohibitions of the Fifteenth Amendment were considered, the slightest reason was afforded for basing the classification upon a period of time prior to the Fifteenth Amendment. . . .

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