Guinn v. United States, 238 U.S. 347 (1915), argued 17 Oct. 1913, decided 21 June 1915 by vote of 8 to 0: White for the Court, McReynolds recused. To convince poor and illiterate whites to support literacy and property qualifications for voting, southern Democrats in the late nineteenth and early twentieth centuries included escape clauses in their suffrage restriction laws. The least subtle of these was the *grandfather clause, which allowed anyone to register to vote if he had been eligible in 1867, before the *Fifteenth Amendment was ratified, or it he were a legal descendant of such a man. Some representatives of the southern upper class opposed this as too transparent an attempt to evade the Constitution, or because they wished to disfranchise the white, as well as the black, lower class.

Accordingly, restrictionists limited the time for qualifying under the grandfather clause in the five Old South states that adopted it, beginning with Louisiana in 1898. In September 1910, however, Oklahoma passed a literacy test with a permanent grandfather clause. Fearing political oblivion if his party lost its African-American support, Republican U.S. District Attorney John Emory brought criminal charges under the 1870 Ku Klux Klan Act against two election officials. The state's Democratic party provided the opposing counsel. Only after President William Howard *Taft determined that he needed the votes of African-American delegates to win renomination at the Republican convention in 1912 did the Justice Department embrace this thoroughly political suit.

In *Williams* v. *Mississippi* (1898), the Supreme Court had refused to throw out Mississippi's notoriously discriminatory voting barriers because the lawyer for the African-American plaintiffs, Cornelius J. Jones, had offered evidence only of the intent of the delegates to the Mississippi Constitutional Convention. Presented with evidence of effect as well as of intent by attorney Wilford H. Smith in *Giles* v. *Harris* (1903), the Court, through "liberal" Justice Oliver Wendell *Holmes, declared the whole matter a *"political question." Yet in *Guinn* and two companion cases, the Court received no evidence of either intent or effect, sidestepped precedent, and joined Louisiana-bred Chief Justice Edward D. *White's opinion declaring the statute a prima facie violation of the Fifteenth Amendment.

There were two main reasons why the Court decided the case in this manner. First, *Guinn* had no practical effect. In all the ex-Confederate states, the grandfather clauses had already lapsed, and Oklahoma continued administrative discrimination without further legal challenge. Second, the grandfather clause was a symbolic embarassment that even the president of the Louisiana Constitutional Convention of 1898 had termed "ridiculous." The decision in *Guinn* was neither inevitable nor particularly progressive.

(See also RACE AND RACISM; VOTE, RIGHT TO.)

J. Morgan Kousser