

Hypothetical: In 1910, South Carolina passes a law which states that male citizens must pass a literacy test in order to vote. However, the law has a “grandfather clause” exception to the literacy test requirement: any lineal descendant of citizens who had been legally able to vote on or before January 1, 1866 did not have to take the literacy test. At this time, there is a federal law which makes it a crime for two or more people to conspire to “injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution.”

John and Fred work as election officers at the time. In their roles as election officers, they do not allow African Americans to vote based on the literacy test and grandfather clause. Eventually, they are convicted for conspiring to prevent African Americans to vote based on the literacy test requirement. They appeal their conviction to the United States Supreme Court. At this time, the Fifteenth Amendment to the United States Constitution had been adopted and states:

The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

-U.S. CONST. amend. XV. (adopted 1870)

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#### Questions/Instructions:

- What different factors or approaches might a judge use to interpret the Fifteenth Amendment of the Constitution generally?
  - Walk the students through identifying and interpreting the key words in the 15<sup>th</sup> Amendment. Those include:
    - “rights” (what are some rights that students can brainstorm?)
    - “denied or abridged” (what do deny and abridge mean? Are they different? Why are both of those words used in the amendment?)
    - “United States or by any state” (does this mean that this only applies to federal elections? Does it apply to all elections?)
    - “race, color, or previous condition of servitude” (who is allowed to vote under the 15<sup>th</sup> amendment based on these words? Who is not allowed to vote?)
  - Walk the students through the hypothetical, paying attention to the dates in the S.C. law.
    - What about the date January 1, 1866 is important? (it is right after the Civil War ended and prior to the 15<sup>th</sup> Amendment being adopted)
    - What does “grandfather clause” mean? (anyone whose grandfather was eligible to vote in 1866 would also be able to vote, so even white men who may not be able to pass a literacy test would still be eligible to vote if their fathers or grandfathers could vote in 1866)
    - Why would a literacy test be important? (many African Americans may not be able to read or write, so they would not be able to pass a literacy test and would not be eligible to vote)
    - Make sure to draw attention to the date of this scenario – 1910.
- After working through those terms, ask whether the election officers’ convictions will stand?
  - What all do you think the Court considered when deciding if they violated the law?
  - Were they conspiring to keep African Americans from voting?
- Are there competing interests between the state law and the federal law and Constitution?

- How do you think the Court handled these conflicts?
- Do you think the Court looked at the underlying intent behind the grandfather clause?
  
- What do you think the Court decided?

Important Phrase from the Supreme Court's decision to discuss:

- “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 15<sup>th</sup> 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 15<sup>th</sup> Amendment, and makes that period the controlling and dominant test of the right of suffrage.”

The Court ultimately upheld their convictions and struck down the grandfather clause.

The Court determined that the only reason the date was included in that law was specifically to keep African American males from voting. They would not have been able to vote in 1866; however, white men would have been able to vote. There was no other purpose for the date except to keep African American men from voting which was a violation of the 15<sup>th</sup> Amendment.