After Two Centuries, our ‘Better Angels’ Finally Learn to Speak

Alan E Garfield
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Barack Obama, whose parents’ marriage would have been illegal in Virginia, carried the state of Virginia on his path to victory.

Blacks, even emancipated blacks, Taney imperiously concluded, were never intended to be “citizens” under our Constitution and could never enjoy the Constitution’s “rights and privileges.”

But our inner angels rose to the fore after the bloody Civil War that the Supreme Court’s decision helped precipitate.

The 14th Amendment was ratified and its first clause - that “all persons born or naturalized in the United States … are citizens of the United States” – overturned the Dred Scott decision.

The Amendment provided that no state “shall abridge the privileges or immunities of citizens of the United States” nor deny to any person the “equal protection of the laws.”

Still, the 14th Amendment’s promise was short-lived.

In its 1896 Plessy v. Ferguson decision, the Supreme Court held that Louisiana could bar Homer Plessy, who was “seven-eighths Caucasian and one-eighth African blood,” from sitting in a train car designated for white passengers.

Of course, the court said, the “object of the 14th Amendment was undoubtedly to enforce the absolute equality of the two races before the law,” but it “could not have been intended to abolish distinctions based upon color” or to force “a commingling of the races upon terms unsatisfactory to either.”

The Framers, Taney declared, viewed the negro as an “inferior order” who “had no rights which the white man was bound to respect” and who “might justly and lawfully be reduced to slavery for his benefit.”

No ruling class

Our inner angels were heard only in the solitary voice of Justice John Harlan’s dissent that our country has “no superior, dominant, ruling class of citizens” and “our Constitution is color-blind.”

It was not until the 1954 Brown v. Board of Education decision that the Supreme Court finally withdrew its blessing from state-imposed segregation and even then its pronouncement was surprisingly tepid.

The court did not boldly proclaim all racial segregation to be a moral atrocity. Rather, it emphasized only that minority children would have a “feeling of inferiority” if they could not learn with whites.

And the Court’s meekly phrased remedy a year later - that integration should proceed with “all deliberate speed” - was an invitation for obstruction.

But by the time the Supreme Court struck down a Virginia miscegenation law in 1967 our inner angels’ voices had grown stronger.

Now the Court roundly condemned the law as having no purpose other than “invidious racial discrimination.” The fact that the law barred only intermarriages involving whites laid bare Virginia’s determination “to maintain White Supremacy.”

Now, 40 years later, we stand poised to swear in our first African-American President.

And Barack Obama, whose parents’ marriage would have been illegal in Virginia, carried the state of Virginia on his path to victory.

On Jan. 20, Obama will stand on the steps of the Capitol and solemnly swear, as prescribed by Article II of the Constitution, to “preserve, protect and defend the Constitution of the United States.”

But what Constitution will he be referring to?

It is not the one that enshrined slavery or the one that was terribly misapplied in Dred Scott and Plessy.

It is instead the one that has stood for that “more perfect union” that our inner angels have always known we must strive to create.

Of course, that project was not completed on Nov. 4, 2008. But surely this is a time, in Abraham Lincoln’s words, when the “chorus of the union” has swelled because it has been “touched” by the “better angels of our nature.”

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