In one of my careers I spent a decade teaching in Tennessee private and state universities, several of which were HBCU, Historically Black Colleges or Universities. Even Tennessee State University in Nashville then bore the HBCU designation. Courses assigned me to teach ranged from reading courses like British Literature and African-American Heritage to writing courses like expository- and creative writing.

To be on a par with my students, I boned up on fast on African-American history. Hence, I considered myself informed when recently I picked up Lawrence Goldstone's 2011, "Inherently Unequal: The Betrayal of Equal Rights by the Supreme Court, 1864-1903." I was wrong. In an earlier career I was married to a lawyer who held the Supreme Court in highest esteem, and I worked in his office for more than a dozen years. Local judges had their biases, we readily discerned, but members of the nation's highest court? Surely they are above party politics and personal prejudice!

Don't I wish. Americans "waded through blood and gore to free the slaves during the Civil War only to allow them to be stripped of their civil rights and subject to relentless terror," writes Daniel Lazare in his review of Mr. Goldstone's findings, a "great puzzle of nineteenth-century American history." Another reviewer calls the post-Reconstruction Supreme Court's slow strangulation of equal rights for African Americans "one of the saddest episodes in American history," responsible for "the nations descent into deep, racist inequality that ruined the lives of millions for a century." Lincoln's legacy was dismantled "by the officeholders best positioned to protect it."

For, just eight years after the 1875 legislation became part of the Constitution—the Thirteenth Amendment abolished slavery, the Fourteenth conferred citizenship and equal protection under the law to all Americans, and the Fifteenth gave black American males the right to vote—the Supreme Court overturned the Civil Rights Act as unconstitutional and disemboweled the equal-protection provisions. Thus the United States became a nation of Jim Crow laws, where African Americans were relegated to a "shadow existence between freedman and slavery."

A couple of decades later, the mighty Oliver Wendell Holmes, Jr., appointee of Theodore Roosevelt, saw to it that the nation's highest court would continue an agenda of racist tenets, though he couched them in lofty legalese. Chapter Fifteen of "Inherently Unequal," titled, "Mr. Justice Holmes Concurs," examines the case of Jackson Giles, a Montgomery postal employee and president of the Colored Men's Suffrage Association of Alabama. The group had sprung into existence in response to the 1901 Alabama constitution, which contained provisions making it practically impossible for a black man to exercise the right to vote in Alabama. Mr. Giles counted on keeping his job as United States government employee but was fired when his lawsuit came to appeal. On the plus side, a prominent New York attorney offered to handle his case pro bono (actually underwritten in secret by none other than Booker T. Washington). In 1903, *Giles v. Harrison* reached the Supreme Court.

Holmes offered two major objections to the lawsuit. While acknowledging that "The plaintiff alleges that the whole registration scheme of the Alabama Constitution is a fraud upon the Constitution of the United States," he nonetheless insists that his court has no authority to

staunch its errors, asking: "[H]ow can we make the court a party to the unlawful scheme by accepting it and adding another voter to its fraudulent lists?"

Justice Holmes could have declared the specific provisions void, Mr. Goldstone points out. He could have asserted that any state provision that violated the Fifteenth-Amendment equal access to the ballot box was void, which would have sent Alabama back to the drawing board. "But Holmes never thought to mention that alternative, even as a hypothetical."

The Justice's second objection is that his court "has little power to deal with the people of a state as a body." This argument is even more disingenuous than the first, says the author, for it declares that Mr. Giles, "had no standing to bring his case . . . because the Supreme Court could not dabble in politics." By framing the case as one of politics as opposed to race, Justice Holmes argued that "political rights cases are not justiciable and that the political process itself must supply the remedy to political wrongs," which means that "any claims alleging racial discrimination in the political process are also nonjusticiable."

On his death in 1935, Justice Holmes was widely eulogized as a great liberal and steadfast defender of democracy. During his life he was celebrated in a bestselling biography that became an Oscar-nominated film. Mr. Goldstone's portrayal, however, is of someone whose views were neither democratic nor progressive.

Miscarriages of justice through judges' personal biases don't disappear just because an era comes to an end. Today black American males are frequently incarcerated for offenses that earn their white counterparts a mere fine. "Federal sentences still vary widely," read a recent WTE headline of an Associated press article that analyzed rulings over the past five years. My African-American students often voiced the belief that "Whitey" judicial systems are a cynically joke perpetrated upon African Americans, with institutions of higher education running a close second. The students took it as a given that I would treat them unfairly; it goes without saying, their stance was often less than welcoming. Did I succeed in dispersing their preconceived notions about me? In specific instances, perhaps, but even then—at gut-level? Probably not. Often the students were academically underprepared, and many were burdened—I learned from their essays—looking after an ill parent or grandparent, or caring for a child of their own, but such exigencies don't count when determining a student's academic standing. The professor herself is constrained by an institution's rules of grading that are derived from state and federal standards. During my Tennessee decade I often felt caught between the immovable object and the unyielding force.