

BOYNTON v. VIRGINIA & The 1961 Freedom Rides

Professor Bass begins Chapter 8 with the election of John F. Kennedy, and the emergence of a “new” Department of Justice, which became actively engaged with the leadership of an established Civil Rights Movement. Noting that the new administration’s priorities focused on voting rights, Professor Bass emphasizes that, in contrast, Movement leaders challenged an entire system of race-based classism – *i.e.*, the maintenance of segregation of public elementary, secondary and post-secondary schools, and the denial of jobs, and access to lunch counters and other services, based solely on race. Their initiatives, not “cleared” with the Kennedy Justice Department, included the testing of the Supreme Court’s decision in a new case, Boynton v. Virginia, which prohibited segregated facilities in interstate bus terminals operated by Greyhound and Trailways bus lines.

In his book, *Freedom Riders: 1961 and the Struggle for Racial Justice* (Oxford University Press 2006), Professor Raymond Arsenault traces the history of the 1961 Freedom Rides, an effort to enforce the Court’s decision in Boynton v. Virginia: “The [Montgomery] bus boycott [had] forced the issue, accelerating the evolution of the idea – and to some extent the reality – of a national civil rights movement, and the lessons learned on the streets of Montgomery clearly encouraged African- Americans to quicken their steps on the road to freedom. But as movement leaders soon discovered, the road itself remained long and hard. In the absence of a fully developed, cohesive national movement, the task of turning a small step into a meaningful “stride toward freedom,” to borrow Martin Luther King’s apt phrase, would prove far more difficult than he or anyone else realized during the heady days of the bus boycott. The boycott itself ended triumphantly in December 1956, following the Supreme Court’s unanimous ruling in Gayle v. Browder. Applying the same logic used in Brown, the Court struck down Montgomery’s bus segregation ordinance and by implication all similar local and state laws.

But the decision did not address the legality of segregating interstate passengers, and it did not challenge segregation in bus or train terminals. Indeed, its immediate impact was limited to local buses in Montgomery and a handful of other Southern cities. Predictably, political leaders in most Southern communities insisted that Gayle only applied to Montgomery, forcing local civil rights advocates to file a series of legal challenges. Armed with the legal precedent in Gayle, NAACP attorneys were “virtually assured...ultimate victory in any legal context over segregated carriers” as one legal historian put it, but the actual process of local transit desegregation was often painfully slow and limited in its effect. By 1960, local buses had been desegregated in 47 Southern cities, but more than half of the region’s local bus lines remained legally segregated. In the Deep South states of Alabama, Mississippi, Georgia, and Louisiana, Jim Crow transit prevailed in all but three communities. And, despite Gayle, there was no sign that local and state officials in these states recognized the inevitability of bus desegregation. * * * The battle in the courts was ultimately to be only one

part of a wider struggle against the indignities of Jim Crow transit, but this struggle took much longer to develop than anyone anticipated in the immediate aftermath of the victory in Montgomery.”

BOYNTON v. VIRGINIA, 364 U.S. 454 (1960)

[The “prior history” of the freedom rides: In 1946, the Supreme Court had held, in Irene Morgan v. Commonwealth of Virginia that Virginia statutes requiring the segregation of interstate buses on the basis of race violated the U.S. Constitution’s Commerce Clause. Following that decision, the Congress of Racial Equality (CORE) and the Fellowship of Reconciliation (FOR), led by Bayard Rustin, James Peck, James Farmer and George Houser, developed the concept of the freedom rides, and tested the case by organizing a few small integrated groups who boarded Greyhound and Trailways buses with the purpose of riding together from Washington to Richmond and thereafter throughout the South. The participants in these early freedom rides (known as the Journey of Reconciliation) were arrested in North Carolina and many, including Rustin (later a principal organizer of the August, 1963 March on Washington), spent up to a month in state prisons, and on “chain gangs.” The story of this initial attempt to enforce the desegregation of interstate buses is the subject of Chapter One of Professor Arsenault’s book].

In Boynton, the Supreme Court considered a case that involved the racially motivated denial of food service by a restaurant inside a bus terminal used by the Trailways bus company. Bruce Boynton, a Howard University law student, bought a Trailways bus ticket from Washington, D. C., to Montgomery, Alabama. At a stop in Richmond, Boynton entered the “white-only” section of the Trailways terminal to get something to eat. When he refused the directive of a waitress and the Assistant Manager of the facility to move to the “colored” section of the restaurant, he was arrested and later convicted of a misdemeanor and fined ten dollars, for violation of Virginia Statutes. On appeal, Boynton claimed that, as an interstate bus traveler, he was on the restaurant premises lawfully and the refusal to serve him constituted discrimination based on color in violation of the Equal Protection, Due Process and Commerce Clauses of the Federal Constitution.

The Virginia Supreme Court affirmed the conviction. Avoiding the federal Constitutional questions, the United States Supreme Court held that The Interstate Commerce Act, which had been interpreted to prohibit racial discrimination in interstate railroad dining cars, contained language that also prohibited such discrimination at an interstate bus terminal’s dining facilities. The Court noted that the Act explicitly included “interstate transportation facilities and property operated or controlled by a motor carrier” within the definition of “services” and “transportation.” Such language, the Court held, applied to the bus terminal restaurant in question whether or not the restaurant itself was owned and operated by the carrier: “[If] the bus carrier has volunteered to make terminal and restaurant facilities and services available to its interstate passengers as a regular part of their transportation, and the terminal and restaurant have

acquiesced and cooperated in this undertaking, the terminal and restaurant must perform these services without [discriminating on the basis of race].” Whatever the terms of the lease agreement between Trailways and the restaurant corporation, the restaurant was designed as an explicit and integral part of the bus terminal, and a substantial portion of its business was related to the serving of Trailways passengers. Indeed, the lease agreement stated, inter alia, that Trailways was constructing a “bus station” *with built-in facilities* “for the operation of a restaurant, soda fountain, and news stand” – and the restaurant corporation had the “exclusive right” to sell food usually sold in restaurants and lunch counters.

The Court held that the terms of the lease constituted “a recognition of the essential need of interstate passengers to be able to get food conveniently on their journey and an undertaking by the restaurant to fulfill that need” and that Boynton had a right to seek service in the “white only” portion of the restaurant – because of the Act’s requirement that food service would be provided without discrimination on the basis of race. Two Justices dissented, reasoning that the Act did not reach the facility in question unless it was owned, operated or controlled by Trailways. The dissenting Justices declined to recognize the language of the lease agreement between Trailways and the restaurant corporation as constituting control by Trailways, and held that the restaurant was owned and controlled by a “non-carrier” that was unaffiliated with Trailways or any other interstate carrier.