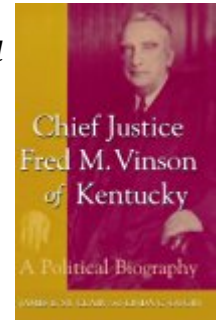


James E. St. Clair, Linda C. Gugin. *Chief Justice Fred M. Vinson of Kentucky: A Political Biography.* Lexington: University Press of Kentucky, 2002. x + 394 pp. \$35.00, cloth, ISBN 978-0-8131-2247-2.



Reviewed by Dennis J. Hutchinson

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Available Vinson

Frederick Moore Vinson (1890-1953) was the thirteenth chief justice of the United States (1946-1953), and, until now, the only one of that number without a full biography. James E. St. Clair and Linda C. Gugin, who teach journalism and political science, respectively, at Indiana University Southeast (New Albany) have filled the gap with a methodical account of Vinson's public career; but not, they say, simply to review his chief justiceship. "[A] fair assessment" of his career, they write, requires "going beyond just viewing his tenure as chief justice, which tends to get disproportionate attention and low marks" (p. xiv). Notwithstanding that declaration (and the title), the authors devote more than half of their book to Vinson's tumultuous tenure as chief justice, which occupied only seven of his 30 years in public life as a local prosecutor, congressman, federal judge, war-time administrator in multiple offices, and secretary of the treasury before becoming chief justice.

St. Clair and Gugin claim, somewhat vaguely, that the "values and beliefs" Vinson "maintained

for a lifetime were those he inherited as a child of the rugged but nurturing hills and valleys of eastern Kentucky. The legacy of tenacious but kind and considerate forebears instilled in Vinson a burning desire to succeed" (p. xi). Vinson's ambitiousness manifested itself early. The fourth child of the town jailer, Vinson led his class academically at Centre College and its law school, excelled in athletics (even showing promise in semi-pro baseball circles), and generally was a big man on a very small campus. After a decade of small-town legal practice, including an unsuccessful run for city council, he was elected as the local commonwealth's attorney in 1921 and three years later won a special election to fill a vacancy in the U.S. House of Representatives. As he proclaimed soon after arriving in Washington, he was "a Democrat saturated with the idea that the party of Jefferson is the party of the people ... a Democrat by birth, family, and of choice" (p. 24). In other words, he was a populist by background, inclination, and convenience.

As a young Congressman, he worked dutifully to service and flatter his constituents but made no

legislative mark. The "Hoover juggernaut" (p. 46) of 1928 swept him out of office, but he was back in Congress two years later, this time determined to make a name for himself. His ambition got a boost from Rep. John Nance Garner (D-TX), whom he had befriended soon after he arrived in Washington and who wanted Vinson to support him for Speaker of the House. Vinson did, and ended up with a plum appointment on the Ways and Means Committee. He subsequently used the position to make himself a tax expert and, not coincidentally, to develop mechanisms for protecting Kentucky's two most important industries, tobacco and coal. He fought against higher taxes (indeed, any taxes) on tobacco, and helped to craft the Bituminous Coal Commission. "Vinson undoubtedly performed his greatest service to [President Franklin D.] Roosevelt and the New Deal as a congressional spearhead in revenue and tax legislation" (p. 85), the authors conclude, but the tobacco and coal interests were also well-served during Vinson's second turn in Congress.

Vinson was a "loyal lieutenant" to FDR, the authors note, shepherding tax bills through committee, and defending unpopular measures such as the Undistributed Profits Tax of 1936 and the Supreme Court-packing plan in 1937. Then, suddenly in 1938, President Roosevelt named Vinson to the U.S. Circuit Court of Appeals for the District of Columbia. St. Clair and Gugin explain the appointment as part of FDR's strategy to staff the federal courts, from top to bottom, with younger judges (Vinson was then 48), a corollary to the rationale for the Court-packing plan. But something more must be going on here. The authors provide no insight into why Vinson, the classic affable politician (a crony of Garner, Sam Rayburn and Harry Truman), would be willing to leave a powerful and influential position in Congress for the "cloistered atmosphere of the federal bench" (p. 98). The pay was better (\$12,500 vs. \$10,000) and the job was secure, but the change is startling and we get no evidence that Vinson enjoyed or esteemed the transition. In fact, he papered over the

differences between the jobs: "They are so much alike that there is not much difference.... Making laws is more or less a judicial procedure" (p. 98).

Vinson lasted only five years on the bench. Complaining that he was not contributing enough to the war effort, he resigned in 1943 to become head of the Office of Economic Stabilization. In addition to serving as wage and price czar, he was vice-chairman of the Bretton Woods conference in 1945, which created the International Monetary Fund (IMF) and the World Bank. Later that year he served sequentially as Federal Loan Administrator and director of the Office of War Mobilization and Reconversion before President Truman named him his Secretary of the Treasury. Vinson was, as the authors title their chapter on his executive-branch years, "Available Vinson."

>From a competent but undistinguished tenure as a federal appellate judge to a whirlwind of successively important administrative positions in the executive branch, where his expertise in taxation and price subsidies were important, Fred Vinson was, again, suddenly returned to the judiciary as Chief Justice in June of 1946. The appointment came in the wake of an unprecedented and venomous public feud between Justices Hugo L. Black and Robert H. Jackson (then on leave prosecuting Nazis in Nuremberg), nominally over judicial ethics but in fact over who would succeed Harlan Fiske Stone as Chief Justice.[1] Truman wanted someone who could act as an internal peace-maker for the Court, and he trusted Vinson for both his personal skills and his moderate politics.

Once Vinson reaches the Chief Justiceship, the authors seem less sure-footed in their subject-matter—which is odd, because, as joint biographers of Justice Sherman Minton, they certainly know the territory.[2] Nor is much of the material for the period fresh.[3] For example, we learn nothing new (although there may be nothing new to learn) about Truman's decision to make Vinson Chief Justice. Did Vinson worked behind the

scenes to secure the nomination, or did he even need to do so? St. Clair and Gugin do not address these questions.

Nor do they shed new light on the famous docket of cases through which the Court plowed during the terms 1946-1952. The authors provide step-by-step accounts of cases involving racial discrimination, free speech, and criminal procedure, as well as such headline cases as *United States v. United Mineworkers*,^[4] the Steel Seizure Case,^[5] and *Rosenberg v. United States*,^[6] but they provide more details than analysis, and serve up academic critiques of the decisions without synthesis or discrimination. The only new information for this well-studied period is their extensive quotation of interviews with Vinson's former law clerks from the Vinson Oral History Project in the King Library at the University of Kentucky. But the law clerks are a protective lot. They are rather discreet about specific cases; and those quoted seemed to admire their boss, or at least feel that he received unfair press from the media and the academy.

Indeed, one of the impressions from this otherwise twice-told tale is how Vinson became an *ad hominem* target of scholarly criticism during his tenure and post-mortem. He was flayed in law school journals for lack of leadership, for not hearing enough cases or writing enough opinions, and for not pressing the cause of racial equality in the courts fast enough. St. Clair and Gugin rehearse these criticisms, with extensive quotation, but they neither endorse nor dissect the claims, many of which now seem unfair or misplaced. Chief Justice Vinson may not have been a first-class technical lawyer, which put him at a disadvantage on a bench with Justices Black, Jackson, William O. Douglas, and Felix Frankfurter. And Vinson seems to have viewed judging more in terms of issuing administrative orders and making policy than of weighing competing claims, understandable reflexes for someone with his resume but substantial handicaps to presiding over

the Supreme Court—especially with its unusually able and headstrong personnel.

The authors' neglect in providing much intellectual or political context for this period of the Court's history, and Vinson's brief tenure (shorter than that of any twentieth-century chief justice except Stone) was a period of postwar transition in multiple respects. The Court was looking both for a new agenda and for its own leadership, and Vinson was *primus inter pares* in title only. It is no surprise that he was unable to herd the wildcats he inherited. Only someone with views more congruent with those of Hugo Black—the feisty self-appointed internal leader of the Court—would have had an easier time, and even then 1 First Street, N.E., would not have become Little Gidding.

Notes

[1]. Dennis J. Hutchinson, "The Black-Jackson Feud," *Supreme Court Review* (1988), p. 203.

[2]. Linda C. Gugin and James E. St. Clair, *Sherman Minton: New Deal Senator, Cold War Justice* (Indianapolis: Indiana Historical Society, 1997).

[3]. The authors appear to have combed the relevant archival materials (although they curiously omit the Frank Murphy Papers at the University of Michigan), but the foundation for their work naturally rests on the Vinson Papers at the University of Kentucky. Speaking from personal experience, the Vinson collection is broad but thin, and it is largely devoid of the revealing letter or the self-reflective memorandum.

[4]. 330 U.S. 270 (1947).

[5]. *Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579 (1952).

[6]. 346 U.S. 273 (1953).

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