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PRESENT FRONTIERS IN CONSTITUTIONAL LAW

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This article was presented as an address to the Villanova Law Forum on October 21, 1966. The author brings to this topic many years of academic and practical experience in the field of constitutional law. He received his Bachelor of Arts degree from the University of Pennsylvania with honors in 1941. He then went on to Harvard Law School where he was a member of the Editorial Board of the Harvard Law Review and later a Langdell Fellow. Mr. Coleman was awarded his Bachelor of Laws degree, magna cum laude in 1946, having taken out time for service in the armed forces. He then served as Law Clerk to Judge Herbert F. Goodrich of the United States Court of Appeals for the Third Circuit, and in the following year clerked for Mr. Justice Felix Frankfurter of the Supreme Court of the United States. A member of the Philadelphia Bar, Mr. Coleman is a partner in the Philadelphia firm of Dilworth, Paxson, Kalish, Kohn and Levy. He was one of the senior counsel for the Warren Commission, and is a consultant for the United States Arms Control and Disarmament Agency.

THE EFFORT to understand American constitutional law and the role of the Supreme Court of the United States forces lawyers to become philosophers. Indeed, Alfred North Whitehead has, not perhaps without a twinkle in his eye, described the role of the Supreme Court in terms of aesthetics. His suggestion that the Court is seeking to bring the Constitution into civilized harmony with the conditions of contemporary America contains an important truth. Earlier, John Marshall expressed a similar thought in legal terms when he made his famous pronouncement that "it is a constitution we are expounding," that is, a document that must live and evolve to serve future generations as well as those of the present.

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To describe, therefore, the constitutional frontiers of the next decade is to forecast the trend of contemporary America. For as that perceptive Frenchman, de Toqueville, observed many years ago, most of the problems of American society — whether of industry, agriculture or finance, of racial interaction, of religious freedom, of urban decay, of rotten political boroughs, or of the eternal conflict between liberty and authority — sooner or later become legal problems for ultimate solution by the Supreme Court.

Today our society still churns. We are faced with many unresolved social, political and moral problems. And thus those who feel that the present Term of the Court will be extremely dull have missed the point. It is a reflection of our acceptance of the Court as the final arbiter of great social issues that such problems as press freedom versus privacy,¹ the 1963 “jury-fixing” conviction of Jimmy Hoffa, despite the presence of a Government informer at Hoffa’s lawyers’ conferences,² such anti-trust cases as Procter & Gamble’s acquisition of Chlorox Chemical Company,³ such issues as double jeopardy,⁴ as right of counsel and the procedures to be followed in juvenile courts,⁵ and as self-incrimination arising out of the federal law which requires gamblers to buy a tax stamp for fifty dollars, pay a tax of ten per cent on all bets taken, and to divulge all clients’ names and addresses,⁶ cases involving atheists and nudists,⁷ obscenity and miscegenation,⁸ the question of whether a “beatnik” is necessarily disqualified as a fit father,⁹ and tax exemptions for churches,¹⁰ are now considered anti-climatic after ten years of racial integration litigation and decisions which established the concept of one man, one vote. The docket in

1. *Time, Inc. v. Hill*, 15 N.Y.2d 986, 207 N.E.2d 604, 260 N.Y.S.2d 7, *rev'd*, 35 U.S.L. WEEK 4108 (U.S. Jan. 9, 1967).

2. *Hoffa v. United States*, 87 Sup. Ct. 408 (1967).

3. *FTC v. Procter & Gamble Co.*, 358 F.2d 74 (6th Cir.), *cert. granted*, 385 U.S. 897 (1966).

4. *Cichos v. Indiana*, 208 N.E.2d 685, *rehearing denied*, 210 N.E.2d 363 (Ind. Sup. Ct. 1965), *cert. granted*, 383 U.S. 966, *petition for cert. dismissed*, 385 U.S. 76 (1966).

5. *In re Gault*, 99 Ariz. 181, 407 P.2d 760 (1965), *prob. juris. noted*, 384 U.S. 997 (1966).

6. *Grosso v. United States*, 358 F.2d 154 (3d Cir. 1966), *cert. granted*, 35 U.S.L. WEEK 3124 (U.S. Oct. 10, 1966) (No. 181); *Costello v. United States*, 352 F.2d 848 (2d Cir. 1965), *cert. granted*, 383 U.S. 942 (1966).

7. *Rosenbloom v. Virginia*, Va. Sup. Ct. App. (Apr. 27, 1966), *petition for cert. filed*, 35 U.S.L. WEEK 3089 (U.S. July 19, 1966) (No. 366).

8. *Gent v. Arkansas*, 393 S.W.2d 219 (Ark. Sup. Ct. 1965), *prob. juris. noted*, 384 U.S. 937 (1966); *Austin v. Kentucky*, 386 S.W.2d 270 (Ky. Ct. App. 1965), *cert. granted*, 384 U.S. 916 (1966); *Redrup v. New York*, N.Y. App. Div., 1st Dept., *cert. granted*, 384 U.S. 916 (1966); *In re Loving*, Va. Sup. Ct. App., *appeal filed*, 34 U.S.L. WEEK 2491 (U.S. July 27, 1966) (No. 395).

9. *Painter v. Bannister*, 140 N.W.2d 152 (Iowa Sup. Ct.), *cert. denied*, 385 U.S. 949 (1966).

10. *Murray v. Goldstein*, 241 Md. 383, 216 A.2d 897 (1966), *cert. denied*, 385 U.S. 816 (1966).

any one Term of the Court, moreover, is episodic, not philosophical, and affords no basis for prediction of the long range interests or concerns of the Court. For, as previously stated, these long range concerns will be nurtured and developed by what America will become during the next ten years.

Before discussing some of the long range concerns, we might profitably spend a minute on an attempt to describe the present functions of the Court in our democratic society. If Marshall, Story, Taney, White or perhaps even Hughes, Brandeis or Holmes were asked to give a capsule summary of their view of the function of the Supreme Court in their day, they might well have replied as follows: First, since we have a federal state, and powers are distributed between the center and the circumference by a legal document, the Court must decide questions of conflict along the border where the power of the state and the federal government meet and overlap. For, if any federalism is to endure, some organ of Government must provide some checkrein on the constituent units, and the history of the American colonies and states made it inevitable that that checkrein should be a court and not Congress. Justice Holmes wrote:

I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States. For one in my place sees how often a local policy prevails with those who are not trained to national views and how often action is taken that embodies what the Commerce Clause was meant to end.¹¹

The second function, these Justices would no doubt reply, arises from the Court's duty to deal with those restrictions, mainly upon the federal government, which are applicable when that Government is dealing with individuals, even where its actions are based upon the sanction of majority vote.

Today, however, the Court, in addition to the two functions just mentioned, is engaged in a third function which I will tentatively describe as the function of setting the minimum standards of aspirations and national goals so that we may become a fully civilized, open society. The devolvement of this new function upon the Court results in the main from a vacuum created by the default of other organs of government, our federal and state executives, our federal and state legislators and our state courts, as well as organizations of people who discharge quasi-governmental functions. Unfortunately, our legislators and governmental executives, our state judges and our citizens in posi-

11. HOLMES, *Law and the Courts*, in COLLECTED LEGAL PAPERS 295-96 (1920).

tions of great power have not performed this function as well as they should. To say this, and to recognize the third function, is to explain why many of the Court's decisions have been five to four and why the results in some cases have been open to debate. As Chief Justice Hughes reminded us in an address in 1936:

How amazing it is that, in the midst of controversies on every conceivable subject, one should expect unanimity of opinion upon difficult legal questions! In the highest ranges of thought, in theology, philosophy and science, we find differences of view on the part of the most distinguished experts — theologians, philosophers and scientists. The history of scholarship is a record of disagreements. And when we deal with questions relating to principles of law and their application, we do not suddenly rise into a stratosphere of icy certainty.¹²

One must concede that a law court whose jurisdiction is based upon case and controversy, which has the traditions of the common law, and where judges are obliged to give reasoned answers, is perhaps the least efficient of all organs of government to make moral judgments which seek to divine the minimum standards of conduct which government should be held to in dealing with its citizens and which groups of individuals exercising societal power should use towards other groups. Nevertheless, we must recognize frankly that the Court on frequent occasions has, and will continue, to assume and discharge this third function. This function is relatively new and embraces the present frontiers of constitutional law. Thus, I predict that the Court, and hence the lawyers here tonight, and those who will be lawyers in the next few years, will be busily engaged over the next decade in the solution of problems which have their genesis in this third function.

Awareness of the concerns of a modern America forms the basis for an informed guess as to the frontiers of law. What are the concerns of modern America? I will suggest four. I know that the fertile minds in this audience could make additional contributions; but I am equally confident that the four I mention would be present on the list of almost anyone in the audience.

First, we are spending considerable time and effort, thought and money, in the field of foreign affairs in an attempt to discharge our responsibility as a major world power. Secondly, we have recently again become concerned that even though we are a nation of unbelievable wealth, one-fifth of our citizens nonetheless remain in the grip of unbelievable poverty. Even in prosperous America, 40 million people

12. Address by Chief Justice Hughes, 13 ALI PROCEEDINGS 61, 64 (1935-1936).

are poor, and some of our urban slums rival those of Caracas or Calcutta. Thirdly, we feel those human problems which are generated by the fact that the population of the country now exceeds 200 million people, 75 per cent of whom live in urban centers, often centers which were conceived to serve 18th and 19th Century needs. Finally, we are engaged in the continuous struggle for the recognition of the individual dignity of others as a matter of national obligation.

If you agree that the Court's primary concern is with modern America, then you will have to agree that the novel issues which the Court will be faced with in the next decade will probably be generated by activities of our citizens in the areas just mentioned — foreign affairs, poverty, urban decay and human dignity.

Let us spend a few minutes suggesting some problems which might come before the Court. The first of these is in the field of foreign affairs. Three years ago I got involved on behalf of the federal government in the subject of arms control, particularly control of nuclear weapons. One would think that constitutional law issues, except perhaps for those involving the treaty-making power, when Senate approval is necessary for agreements with foreign powers, would be irrelevant or non-existent. The problems instead would seem to be scientific or military — how to detect atomic explosions, the physical effect thereof, the reliability and validity of seismographs, defense against atomic weapons — but constitutional issues do lurk in the background. As you know, the major stumbling block to an atomic control treaty has been British and American insistence upon the right of on-site inspection, that is, the right of any contracting party to a nuclear control treaty to demand to inspect the territory of the other upon the occurrence of an unexplained seismographic event. I am sure you begin to perceive the lurking constitutional problem. Suppose the United States suspected that General Motors, for example, had atomic weapons stored in one of its plants or factories or that it was testing with atomic material without Governmental permission. Could an FBI agent, unannounced, go into the plant and search without a search warrant? The answer is probably no. It would appear that a search by the federal government without a warrant would be a clear violation of the fourth amendment. You would also agree that if the FBI agent went to a state police officer and said: "I can't make the search without a warrant, will you make it for me?", that any resulting search would likewise be a violation of the Federal Constitution. If this is so, how can the United States by statute or treaty authorize a foreign government — the Soviet Union, for example — to conduct such a search without the consent of General Motors or a warrant first

issued by a federal court. And if the latter is required, would the Soviet Union agree that its right to inspect could first be subjected to a hearing by a federal court to see whether there was reasonable cause to issue a search warrant?

Then, too, it is not too far-fetched to imagine that sooner or later a case will be submitted to the Supreme Court of the United States dealing with whether our agents and governmental officials are under constitutional restraints when they take action on behalf of the United States outside the territorial limits of the United States. We know that this issue reached the Supreme Court in the 1948 Term when at the last minute lawyers for the convicted Japanese war criminals asked the Court to review the convictions of General Tojo and other Japanese officers by a military tribunal.¹³ The Court denied review on the narrow ground that the tribunal which tried the Japanese was an international one, not one of the United States. In addition the fact that MacArthur was not acting in his capacity as an American officer, and the extensiveness of the war power led the Court to the conclusion that it was without jurisdiction.¹⁴ Of course, in time of war, the war power and the recognition that war must be waged effectively give the Executive and the military wide leeway, but *Ex parte Endo*¹⁵ teaches that there are limitations even to the war power. You will recall that in the *Japanese Exclusion*¹⁶ cases, the Court held that under the war power, the military could evacuate Japanese citizens from the West Coast. However, in *Ex Parte Endo*, the Court held that once the Japanese were moved to the Midwest, the federal government had no power to hold them in camps there.¹⁷

In *Reid v. Covert*,¹⁸ moreover, the Court after reargument held that the wife of an American soldier who was living in Japan where her husband was stationed could not be tried by a military court and had the right to trial by jury even though her offense was committed in Japan.

In other words, as we get increasingly involved in other areas of the world, particularly without the legal clarification of a congressional declaration of war, cases will develop presenting issues as to whether United States officials can exert certain authority without constitutional restraint over American nationals or foreign citizens where

13. *Hirota v. MacArthur*, 338 U.S. 197 (1948).

14. *Ibid.*

15. 323 U.S. 283 (1944).

16. *Korematsu v. United States*, 323 U.S. 214 (1944); *Hirabayashi v. United States*, 320 U.S. 81 (1943).

17. *Ex parte Endo*, 323 U.S. 283, 302 (1944).

18. 354 U.S. 1 (1957).

the same official doing the same act in the United States would be subject to such restraint.

Another lurking problem in the foreign affairs area is inherent in the language of article III of the Constitution. Section 1 of article III provides that the judicial power of the United States is vested in a Supreme Court and in such inferior courts as the Congress may from time to time establish. Section 2 of the article specifically provides that the federal judicial power extends "to controversies to which the United States shall be a party." In other words, there is federal jurisdiction if the United States is plaintiff or defendant, regardless of the source of the applicable law — state, federal or international. Where suit is brought against the United States by one of the fifty states, or a citizen of a state, or a foreign citizen, it is clear that such suit cannot be brought unless the United States consents. There is, however, nothing in article III which requires this result. In fact, article III was read in *Chisholm v. Georgia*¹⁹ as not requiring the consent of a state to a suit by a citizen of another state. That decision caused such indignation and apprehension that the eleventh amendment was adopted. But the eleventh amendment deals only with suits against one of the constituent states, not those against the federal government. Thus, it is quite conceivable that a foreign state might attempt suit against the United States in the original jurisdiction of the Supreme Court.²⁰ For example, the Peoples' Republic of North Vietnam might sue the United States for declaratory relief as to whether the President has constitutional authority to engage in a major military action on foreign territory without a declaration of war by Congress. Even though most responsible legal opinion concludes that the President does have the authority, there are a few who argue to the contrary. More realistically, France might sue the United States to resolve a conflict over construction of obligations to NATO.

Turning to the area of poverty — the second area of concern — it can be argued persuasively that *Gideon, Escobedo, Miranda*,²¹ and the other decisions requiring the State to supply a defendant with counsel in a criminal proceeding, even before the time of trial, find a firmer basis in the concept that a civilized society should not place one of its citizens at a disadvantage because of poverty than in the theory that only counsel can ensure fair trial. As Judge David L.

19. 2 U.S. (2 Dall.) 418 (1792).

20. *But cf.* *Principality of Monaco v. Mississippi*, 292 U.S. 313 (1934).

21. *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Escobedo v. Illinois*, 375 U.S. 902 (1963); *Miranda v. Arizona*, 384 U.S. 436 (1966).

Bazelon of the Court of Appeals for the District of Columbia Circuit was quoted recently as saying :

The rights are all up there. Some people, because they have money and intelligence, are tall enough to reach them. Others, because they're poor or ignorant, are too short. Do you say that is just too damned bad? Or do you give the short guys a box to stand on? The box is information about their rights.²²

If the real rationale of *Gideon* and *Escobedo* is deemed to be our attitude towards poverty, should there not be instances in which the Government has to supply legal representation to the poor even though the controversy is civil. For example, if the Government (state or federal) seeks to oust a tenant from a public housing project, it is dubious whether the government should be able to have the benefit of a lawyer, but, because of his poverty, not the tenant. Or the case may arise in which the Government seeks to condemn property and the owner is unable either to afford a lawyer to represent him or to obtain one on a contingent fee basis. Similarly, business, by the fact of its size, can always afford counsel, while the individual, at least in the role of defendant, must often allow his rights to go by default because he cannot pay legal fees. Several recent decisions have suggested that the *in forma pauperis* federal statute,²³ allowing for counsel paid by the Government in civil cases, points to a problem of constitutional dimensions.²⁴ Courts in California²⁵ and Rhode Island²⁶ have held that the common law itself requires the state to supply counsel in a civil case to which the government is a party. Just the other day Judge Stanley Greenberg, in the Common Pleas Court of Philadelphia, held that a defendant in a civil commitment case had the right to a court-appointed lawyer before a determination of mental competency was made.²⁷

In the area of urban congestion and decay I predict there will be more decisions requiring the suburbs to shoulder their share of the responsibility for and cost of the urban complex whose benefits they inevitably enjoy. For example, if the Court should recognize that state-permitted *de facto* racial segregation arising from housing patterns is as much a violation of the fourteenth amendment as state-

22. Life, Oct. 21, 1966, p. 41.

23. 28 U.S.C. § 1915.

24. Cf. *Adkins v. E. I. Du Pont de Nemours & Co.*, 335 U.S. 331 (1948).

25. *Lewis v. Smith*, 21 R.I. 324, 43 Atl. 542 (1899); *Spalding v. Bainbridge*, 12 R.I. 244 (1879).

26. *Martin v. Superior Court of Alameda County*, 176 Cal. 289, 168 Pac. 135 (1917).

27. *Commonwealth ex rel. Miller v. Shovlin*, ___ Pa. D.&C.2d ___ (C.P. 1966).

imposed segregation, then it will follow in the large Northern cities that the best way to end segregation is to establish school districts which embrace whole urban complexes and which do not stop at archaic political boundaries. It is doubtful that a state should be able to defend itself under the fourteenth amendment by arguing that the schools in Philadelphia, for example, can be no other than they are because only a small percentage of the public school student body is white. Since the state, rather than the City as a political sub-division, is the real defendant in such a case, a federal court should not have to close its eyes to the fact that the greater Philadelphia urban community has a predominantly white population, which is enjoying the benefits of superior schooling in the counties surrounding the old city of Philadelphia.

You will recall that the fourth area to which I referred was the area of increasing recognition of and respect for the dignity of the individual. The aspect of this problem which is of particular interest involves the role of the Court in civilizing the dealings between groups of people generally considered "private" — people not employed by or clearly related to the government. The Supreme Court has, of course, made it abundantly clear in the past that the government and its officials, with the striking exception of its courts, may never deal with individuals upon a basis which takes cognizance of race or religion. Much less clearly developed is the area in which private persons make their acts "public" by calling on the state's courts to aid them in their dealings with other private citizens.

The early announcement in *Shelley v. Kraemer*²⁸ that a state court was "the state" and hence its enforcement of a racially restrictive covenant was invalid state action under the fourteenth amendment, has not been followed down the broad, but problem-fraught, way it pointed. The idea that "private" action may have to answer to the strictures of the fourteenth amendment is at least as old as the voting cases.²⁹ *Shelley* served to give it new life by developing the theory that state courts were co-equally responsible with the executive and legislative branches. This idea was kept alive in the dissents in *Rice v. Sioux City Memorial Park Cemetery, Inc.*³⁰ and *Black v. Cutter Labs.*³¹ The majority in those cases, however, appeared indecisive and reluctant to face the problem posed. There the matter stood until the highly significant decision in *New York Times Co. v. Sullivan*.³²

28. 334 U.S. 1 (1948).

29. *Terry v. Adams*, 345 U.S. 461 (1953); *Smith v. Allwright*, 321 U.S. 649 (1944); *Nixon v. Condon*, 286 U.S. 73 (1932).

30. 349 U.S. 70 (1955).

31. 351 U.S. 292 (1956).

32. 376 U.S. 254 (1964).

Perhaps the most interesting aspect of the multi-faceted *New York Times* case is the fact that it arose from a "private" tort action in a state court. Far-reaching free speech principles laid down by the Court were directed to a rule of state common law. Mr. Justice Brennan stated:

Although this is a civil law suit between private parties, the Alabama courts have applied a state rule of law which petitioners claim to impose invalid restrictions on their constitutional freedoms of speech and press. . . . The test is not the form in which state power has been applied, but, whatever the form, whether such power has in fact been exercised.³³

In the *Rice* case the Iowa Supreme Court held it was not "state action" to allow in a tort case a defense based on a racially restrictive covenant, and the Supreme Court by a four to four vote refused to resolve the question on the merits.³⁴ As a result of *New York Times*, the Court now treats the granting by a state of an affirmative cause of action in tort as "state action" governed by the fourteenth amendment.³⁵ The implications are far reaching. In a provocative recent article,³⁶ Professor Louis Henkin suggests that this principle makes all private action subject to fourteenth amendment standards when enforced by state power (judicial or otherwise) except where some countervailing constitutional guarantee forbids the state to refuse its aid. The proposition may be stated in other terms: If a state has constitutional power to outlaw a private practice (for example discrimination in private accommodations) it is powerless to enforce by judicial decision the kind of private discrimination which it might outlaw, even though enforcement is merely lending the aid of its judicial system.

To state the problem thus does not simplify the answer in a given case, but it marks a shift in attitude which is highly significant and with which the Court may be expected to be increasingly preoccupied. In short, the state may no longer assume its age-old, and actually fictional, "neutrality" in matters of discrimination between private persons. In general terms discrimination may be of two kinds: it may be that of personal eccentricity and preference or that of the almost cultural exploitation by a dominant group of an oppressed group. The former may be valuable and leaven society. The latter is always insidious, because it carries with it a congeries of economic ramifications. In the latter area, for a state court to be "neutral" has tradi-

33. *Id.* at 265.

34. 349 U.S. 70, 75-77 (1955).

35. 376 U.S. 254, 277 (1964).

36. Henkin, *Shelley v. Kraemer: Notes for a Revised Opinion*, 110 U. PA. L. REV. 473 (1962).

tionally meant for it to lend its powers to support the "have" group, the dominant group, the group which commands the money, the education and the motivation to use the legal system. Once it is recognized that no decision can be a "neutral" one, we are well on the way to discovering the true balances which must be struck. The Court may decide that eccentric individual discrimination is a right of personal liberty which the courts are constitutionally bound to enforce, and, in fact, could not constitutionally outlaw. It does not follow that they must likewise enforce, for example, restrictive covenants which give rise to wide-spread "private" zoning. This approach to fourteenth amendment decisions protects the free exercise of religion, however eccentric or discriminatory, and it also protects private property. These interests must be weighed in any given section against the rights of other individuals to equal treatment. Such weighing will increasingly become the business of the Court during the coming decade.

A brief hypothetical case will illustrate the area I have been discussing — that of the testator who leaves his money to establish a racially segregated school. First, it will be noted that the state cannot constitutionally run a racially segregated school because such action violates the equal protection clause. Second, a state statute which outlaws private racially segregated schools is clearly constitutional. Equally as clear, a man's will could not be probated and placed in effect absent the power of the state, and a racial restriction is a nullity unless a court will permit rights or duties to be based on it. The state gives the right to leave property to one's descendants. Thus, since the state cannot by statute or executive order create racially segregated schools, why should the same result be achieved by the employment of state judicial power. On the other hand, a state by statute probably could not require anyone who had a dinner party at his house to invite Negroes. Thus, if a Negro attempts to crash the party, the state trespass statute most likely could be used. But this is because the right of privacy has to be considered and weighed against the right to be free of governmental action based upon race. The answer requires a balancing of factors which it is not the purpose to examine fully here. But clearly it is a delicate problem which cannot be resolved through the use of catch phrases. This will be the area in which the Court will struggle.

I note that I have now been talking for 25 minutes and so I will end. Mr. Justice Frankfurter on several occasions stated that he was always impressed with the fact that Pennsylvania lawyers could argue the most important and complicated case well within the hour allotted

by the Supreme Court of the United States. He finally asked Mr. Justice Roberts why this was so. Mr. Justice Roberts replied that this was due to two salutary rules of the Supreme Court of Pennsylvania: (1) that the questions presented must always be set forth on one page of the brief, and (2) the total time allowed for argument by one side would not exceed 30 minutes.

But I do hope that you will draw at least the two following conclusions from my remarks:

1. That as long as this country attempts to solve its serious political, social and moral problems in terms of the rule of law, adjustments of conflicting interests will be made peacefully. The only time that we were unsuccessful we suffered the tragedy of civil war.

2. The young lawyer should take heart and not feel that he was born too late. Though denied the opportunity to argue *Marbury v. Madison*, the *Dred Scott* case, *Brown v. Board of Education*, or *Gideon*, he can rest assured that in the future, legal problems as intriguing and as stimulating as those just mentioned will still come before the Court, and as lawyers and judges you will have an opportunity to be where the action is. For better or worse, lawyers and judges in this country are the social architects. As we strive to achieve the type of society of which we can all be proud, take heart, lawyers will have to fashion the ways and means in which to make adjustments without too much human displacement.