CHAPTER 4

THE CONSTITUTION: DEMOCRACY AND MINORITY RIGHTS

Gilman Hall was the most prominent and historic building on the main campus of Johns Hopkins University in Baltimore. The red brick structure was accented with white wooden trim and topped with a picturesque cupola. Tall white wooden columns decorated the large porch at the front entrance. Clark Schooler considered himself privileged to have spent his graduate school career studying and writing in such an attractive and comfortable academic building.

On an afternoon in late June of 1963, Clark was sitting on a chair outside the main political science seminar room in Gilman Hall. For the past six years, through all the time Clark was a graduate student, that seminar room had been a major part of Clark's life. He had taken almost all of his graduate school classes in that seminar room. The political science seminar room also was the place where, as a teaching assistant, Clark had taught some of his first political science courses to undergraduate students at Johns Hopkins.

On this particular day, however, Clark Schooler was facing the final hurdle in his long dash to earn a doctoral degree in political science. In only a few minutes, he would enter the seminar room and take his Ph.D. oral examination. A committee of three faculty members at Johns Hopkins would ask Clark questions about his dissertation, the book-length manuscript which Clark had just completed writing, correcting, and proofreading.

As he sat in the chair outside the seminar room, Clark was actively applying his First Rule Of Meeting Attendance. That rule read: Never go to a meeting without a clear picture of what you want to accomplish at the meeting. Clark had long ago noted that many people go to a meeting with no set agenda of things that are to be achieved at the meeting. Clark tried

never to do that. Before each meeting he attended, Clark worked hard to have clear in his mind the specific things he wanted done at the meeting.

For instance, this particular policy was to be adopted at the meeting. Or this particular man, or that particular woman, was to be hired at the meeting. The particular goal was not important. What was important was that Clark Schooler attend and participate in the meeting in such a way that Clark's particular goals and interests were clear in his mind. If they were, Clark's goals and interests stood a good chance of being advanced by the meeting.

In the case of Clark Schooler's Ph.D. oral examination, Clark's goal for the meeting was crystal clear. "Get the three faculty members to vote to award Clark Schooler his Ph.D. degree in political science."

But Clark wanted more from this particular meeting. Graduate students who performed unusually well in their Ph.D. oral examinations were awarded the degree "with distinction." The longer Clark sat in the chair outside the seminar room, the more he worked himself up psychologically to give a really good performance and get a Ph.D. diploma marked "with distinction."

Professor Michael Middleton, Clark's Ph.D. dissertation supervisor, emerged from the political science seminar room. This was the same Professor Middleton who taught the graduate seminar in American Politics at Johns Hopkins.

Professor Middleton previously had gathered the other faculty members together in the seminar room and briefed them on Clark's graduate school career and the subject matter of his dissertation. Professor Middleton gave Clark a sort of "This is it!" smile and then invited Clark to follow him into the seminar room.

As he entered the seminar room, Clark was struck once again with the room's attractiveness and comfortableness. The room was located in the southeast corner of Gilman Hall, with large windows on both the east side and the south side. Because of the abundant southern exposure, the room tended to be bright and sunny all day long. In the early fall and late spring, when the weather was warm, the windows could be opened to let fresh air into the room. That was the case on this particular June day. The sun was shining, the windows were open, and the seminar room was filled with the luxuriant feeling of a pleasant early summer afternoon.

Clark sat down at the end of an oblong conference table. Three copies of his dissertation were scattered around the table top. The three faculty members could pick up one of the copies and look up particular parts of Clark's dissertation if they wanted to do so. Clark noticed, with a little bit of discomfort, that one faculty member had stuck little pieces of paper at

various points in one of the copies of the dissertation. Obviously, Clark deduced, Clark was going to be questioned on each portion of the dissertation that particular faculty member had marked.

Professor Michael Middleton opened the festivities. "Clark," he said, "tell us the title of your dissertation and why you selected that particular topic?"

Clark swallowed hard, and his oral exam began. "The title of my dissertation," Clark said clearly but not too loudly, "is 'Black Americans And The United States Constitution.' I selected that topic because I wanted . . ."

That was all the further Clark got. He was interrupted, somewhat officiously, by Professor Charles Brentwood, an expert in the U.S. Constitution and constitutional law. Professor Brentwood said: "I would have been happier if you had entitled your dissertation 'The United States Constitution And Black Americans,' thereby putting the Constitution first. The Constitution, as the fundamental written document of the United States Government, should automatically be placed before any constituent group in U.S. society, even a minority group as important as black people."

Clark responded quickly and confidently: "The reason I put American blacks first in the title was that black men and women were first brought to what is now the United States in 1619. That was exactly 168 years prior to the writing of the United States Constitution in Philadelphia in the summer of 1787. Black people were here in the U.S. quite some time before the Constitution was adopted."

Clark did not just answer Professor Brentwood's immediate question. He used the question as an opportunity to expound on the history of African-Americans in the English colonies in North America, a key part of the introduction to his dissertation.

"Jamestown, Virginia, was the first permanent English colony in North America," Clark said. "It was founded in May of 1607. Only twelve years later, in 1619, twenty African slaves were sold to the Virginians from a Dutch ship visiting the harbor. That was the beginning of 'slavery' and 'involuntary servitude' in the American South."

"Incidentally," Clark continued, "I used the words 'slavery' and 'involuntary servitude' because those are the words used in the U.S. Constitution."

That statement received a nod of approval from Professor Brentwood. It was legend among students at Johns Hopkins that Professor Brentwood knew the U.S. Constitution word for word and was delighted whenever he heard his students using exact constitutional language.

Clark continued with his presentation. "It is a great coincidence that African slaves were first brought to Virginia in 1619. That is the same year

that the Virginia House of Burgesses, an elected legislature, held its first meeting in Jamestown. This was the first meeting of a legislature, elected by the people, in North America. How ironic that slavery began for Africans in America the same year that representative government began for white people."

It seemed to Clark that the panel of three professors was ready to let him talk for awhile and present some of the ideas from his dissertation. "The African slaves proved useful and profitable on the farmlands of the American South," Clark pointed out. "Meandering tidewater rivers made large plantations accessible to ocean shipping. The South became an ideal place for growing cotton and other agricultural products needed back in England and on the European continent. The African slaves were a cheap and reliable source of labor for the South's emerging agricultural economy."

"In the North," Clark went on, "the land was hillier and the climate more harsh. The use of human slaves was not economically successful. The Northern colonies mainly used the labor of yeoman farmers who owned the land they farmed. In the emerging factory towns and cities in the North, white men and women worked for wages."

"The end result," Clark continued, "was the creation of sectionalism in what is now the United States. The South relied heavily on slave labor. The North emphasized the work and industry of free citizens. These two sections of the nation, the North and the South, developed different economies, different social structures, and vastly different attitudes toward the institution of human slavery."

Clark was moving his presentation along and enjoying it. He could see the faculty members were listening intently and paying close attention.

"The irony of freedom developing for whites and slavery existing for black Africans continued throughout the colonial period," Clark explained. "In 1620, the Mayflower landed at Plymouth Rock. The Pilgrims adopted the Mayflower Compact, the first written plan of government to be adopted in the colonies. That plan created an orderly society roughly based on the consent of the governed. But it applied only to the Pilgrims. No such ideas were ever applied to the African slaves in the South."

"In 1639," Clark continued, "a group of Puritans left Massachusetts and founded Connecticut. They drew up and adopted the Fundamental Orders of Connecticut, the first written constitution in the colonies. It provided for a colonial legislature, with elected representatives from each Connecticut town. But no one even thought about drawing up a compact or a constitution to protect the rights and provide a role in self-government for the black slaves in the South."

"Or take our own state of Maryland," Clark said with hometown

enthusiasm. "Maryland was founded in 1634 as a haven for Roman Catholics, a place where they could escape religious persecution in Protestant England. But George Calvert, the founder of Maryland, invited a number of religious groups to come and live together in his new colony. In 1649, Maryland adopted the Act Of Toleration, which guaranteed freedom of religion."

"But no one bothered to be tolerant of the rights and freedoms of the African slaves in Maryland," Clark went on. "It's true that Maryland is a Border State and did not secede from the Union during the Civil War. But it also is true that Maryland was a slave colony and, after the American Revolution, a slave state. Our hallowed and venerated 'toleration,' of which all Marylanders are justifiably proud, was clearly marked 'Whites Only.'"

Clark decided it was time to hammer home one of the main points of his dissertation. "In 1776," he noted with emphasis, "Thomas Jefferson, a Virginia slave owner, wrote the Declaration Of Independence. In his original draft, Jefferson included a stern condemnation of the international slave trade. That was the process by which blacks were captured in Africa, put in chains, and shipped to a life of bondage in the New World."

"But Jefferson's brave words condemning trading in human flesh were deleted from the Declaration," Clark said with the sound of condemnation in his voice. "Why? Because the free colonies in the North wanted to keep the support of the slave holding colonies in the South in the upcoming Revolutionary War with Great Britain."

Clark was certain this statement would get a rise from the assembled faculty members. He was not disappointed. William Carpman, professor of history at Johns Hopkins, was a published scholar in the field of 19th Century American history. A history professor had been brought in to give an interdisciplinary perspective to Clark's oral examination. "Are you implying," Professor Carpman asked with feigned amazement in his voice, "that Thomas Jefferson, one of our most admired historical leaders, was of two opinions on the subject of human slavery? Are you saying that he condemned slavery, or at least the international slave trade, in his political thought but continued to own slaves and defend slavery in his public life?"

"Yes, I am," Clark replied forthrightly. "But, for me, Thomas Jefferson established a model for well-meaning persons in both the North and the South. People like Jefferson were opposed to trading in human flesh in their hearts, but they were unwilling in their public lives to openly condemn slavery and thereby antagonize the white South. As I said, the white South was needed to win the Revolutionary War, or, later on, the white South was needed to win World War I and World War II."

"Some very well-intentioned and courageous people," Clark continued,

"were unwilling to condemn slavery and, later on, racial segregation in the South. Why? Because they did not want to risk losing support from white Southerners for some other, often totally unrelated, political or governmental purpose."

Professor Carpman looked hard at Clark for a moment and then asked: "Do you condemn Thomas Jefferson for amending the Declaration of Independence, one of the great documents in the history of human freedom and liberty, so as to not mention the international slave trade and thereby not antagonize the South?"

Clark Schooler had to think about this question. Professor Carpman was a renowned expert on the period immediately prior to the American Civil War. Clark tried for a few seconds to divine the answer that Professor Carpman was seeking. When nothing came to Clark in that regard, he gave his own honest answer.

"I do not condemn Jefferson," Clark said with conviction. "Like so many United States political leaders, Jefferson was the victim of historical accident. For geographical reasons, the United States turned to slave labor in the South and free labor in the North. In order to keep the country united, good men and women, both South and North, had to put a muzzle on their condemnation of human slavery. Jefferson was just the first in a long line of political leaders who would feel the need to sacrifice freedom for African slaves on the altar of national unity."

Professor Carpman looked at Clark and muttered, somewhat to himself, "That's one way to look at it."

There was a brief pause, and then Clark went on with his defense of his dissertation. "That brings us to the Constitutional Convention in Philadelphia in 1787," Clark said. "Never before or since has there been such a gathering of great leaders. George Washington, of Virginia, the victorious commander of the colonial troops in the Revolutionary War, was chosen to be the presiding officer. James Madison, also of Virginia, kept the notes that are our major written record of what was debated, adopted, and discarded at the convention. Alexander Hamilton, of New York, provided many of the ideas concerning a strong national government that found their way into the Constitution."

Clark Schooler hesitated for a moment. He looked around the table at his faculty inquisitors. Very slowly and precisely, Clark said: "I now want to take each of the major governmental institutions created by the United States Constitution and show how those institutions affected black Americans."

"I'll begin with federalism," Clark stated in his most official voice, "because the creation of a federal system was the most important accom-

plishment of the Constitutional Convention. The thirteen colonies had evolved into thirteen states. These state governments were allowed to retain their sovereignty, their legal and governmental control, over state matters. But a new national government was created with its own sovereignty, mainly over national and international matters. This creation of two forms of sovereign government, thirteen governments at the state level and one government at the national level, was called federalism, or dual sovereignty."

"Federalism is a marvelous creation," Clark continued, "but it has made life miserable for black people in America. It permitted state governments in the American South to legalize slavery. After the Civil War and the emancipation of the slaves, federalism permitted the Southern states to legally institutionalize racial segregation. Rules segregating blacks from whites, particularly in public places, were codified in state laws. Long after there was a national consensus that racial segregation should be ended throughout the United States, federalism permitted the Southern states to legally preserve strict racial separation."

While Clark Schooler was making this definitive critique of American federalism, Professor Charles Brentwood, the constitutional expert, had grown increasingly agitated.

"Hold on a minute, Clark," Professor Brentwood snapped. "There's a strong historical precedent for federalism in the United States. England treated the thirteen colonies as thirteen individual governments. England never created a centralized colonial government for the thirteen colonies, say at New York or Philadelphia. The result was a tradition in the colonies of local self-rule."

"At the time of the American Revolution," Brentwood thundered on, "the thirteen individual colonies became thirteen individual states. True, the Continental Congress was created to fight the Revolutionary War for the thirteen states and signed the Treaty of Paris ending the war. But the Articles of Confederation, which were created to govern the new United States after the Revolutionary War, retained all sovereignty in the states. Participation in the Articles of Confederation, and obeying the decisions and programs of the Continental Congress, was purely voluntary on the part of the states."

"It's also true," Brentwood continued, "that the Articles of Confederation did not work very well. Individual states refused to tax their citizens to pay the cost of fighting American Indians on the western frontier. Individual states imposed tariffs on goods imported from other states that greatly restricted commerce between the states. At the Annapolis Convention, the forerunner of the Constitutional Convention in Philadelphia, the states

wrestled with the question of whether Maryland or Virginia owned and controlled the Potomac River, and they could not reach a solution. After failing to make any progress at Annapolis, they decided to meet again later in Philadelphia."

Professor Brentwood's voice trailed off. He realized he had better get to the point of his oration. "What I am getting at," Professor Brentwood concluded, "is that state power was clearly established by the time of the Constitutional Convention in 1787. There was no way the convention was going to adopt anything but a governmental system in which the individual states retained a major share of their sovereign powers."

At this point the history professor, William Carpman, rejoined the discussion. "I agree with Professor Brentwood," Carpman began. "We are talking here about one of the great safeguards of United States democracy. Federalism created what I call the territorial balance of power. The possibly tyrannical power of the national government is checked by the power of the individual state governments. I have always thought of federalism as one of the great safeguards of liberty and freedom. But you, Clark, are presenting it as a great threat to the civil rights of racial and ethnic minorities."

There was a joke in academe that the best way to pass a Ph.D. oral was to get the examining professors riled up and doing all the talking. The more the professors talked, so the joke went, the less time there was for the Ph.D. candidate to talk, possibly make mistakes, and get into trouble. The joke had momentarily come to pass at Clark Schooler's Ph.D. oral. Professor Brentwood's defense of the strong position of state sovereignty in American history had used up some time. Professor Carpman's ideas on a "territorial balance of power" had used up even more time. The result was a brief but uncomfortable pause when Professor Carpman finished speaking.

Clark used the pause to advantage. "Of course," Clark said, "no one can deny the importance of federalism in the historical development of government in the United States. But also, no one can deny that the states' rights aspect of federalism has been the major reason for the reduced position of black people in American life."

"To understand my Ph.D. dissertation," Clark concluded firmly and loudly, "you have to understand that I have set as my task the following: The revelation of the racially discriminatory aspects of some of the most treasured and admired aspects of American Government. Federalism, and state's rights, is only my first case in point."

Making that point so forcefully had given Clark a feeling of power and control. He moved forward confidently with his presentation. "My second case in point," Clark said, "is separation of powers. During that hot summer of 1787 in Philadelphia, the Founders created a national government that

was divided into three parts. Those were the legislative, the executive, and the judicial. Most people know the three branches of the U.S. Government by the more familiar titles of the Congress, the President, and the Supreme Court."

"In addition to separation of powers," Clark went on, "the Founders permitted the three branches of the national government to have checks and balances on each other. The president can veto laws passed by Congress. To override a presidential veto, Congress must repass the law by a 2/3 majority in both houses of Congress. On the other hand, the Congress possesses all the power to appropriate money. The president cannot implement his various governmental programs, at least not for very long, if the Congress will not appropriate the money to pay for them."

"The exact role of the Supreme Court took some time to emerge," Clark said, "but its powers in the national government were soon clear. The Supreme Court, by a process called judicial review, can declare laws of Congress unconstitutional, which means those laws are no longer in effect. Furthermore . . ."

At that point Clark was abruptly interrupted by Professor Michael Middleton, who had supervised the writing of Clark's dissertation. "Clark," Professor Middleton said somewhat testily, "everyone in this room knows how separation of powers works. Get to the point."

Clark responded immediately to Middleton's demand. "The point is," Clark said, "that separation of powers became an obstacle to American blacks gaining their civil rights. By the middle of the 20th Century, it was obvious that racial segregation in the American South could only be eliminated by national government action. But for the national government to act, all three branches of the United States Government have to be in agreement. And one branch of government, the U.S. Congress, has failed to act on behalf of civil rights for black men and women. The Congress has steadfastly refused, throughout the 20th Century, to pass a major civil rights bill guaranteeing freedom and equality to Southern blacks."

"When dealing with this question," Clark went on, "it is important to note that two of the three branches of the national government, the President and the Supreme Court, have progressively supported black civil rights. President Franklin D. Roosevelt issued an executive order in 1941 that racially integrated all the defense plants in the United States during World War II. President Harry Truman, in 1948, issued an executive order that racially integrated the armed forces, specifically the Army, the Navy, the Marine Corps, and the Air Force. And, of course, President Eisenhower in 1957 issued his famous order to use U.S. troops to integrate Central High School in Little Rock, Arkansas."

"And, in 1954," Clark said, "the Supreme Court placed itself firmly behind black civil rights when, in the *Brown v. Board of Education* ruling, it mandated the racial integration of public schools throughout the United States."

"But one branch of our tripartite national government, the Congress, has refused to pass a civil rights bill. As a result, black persons in the American South remain unprotected where their civil rights are concerned. And separation of powers is the admired and exalted principal of our national government that has permitted this situation to come into existence."

To Clark Schooler's surprise, none of the faculty at his Ph.D. oral exam questioned his description of separation of powers as harming African-American civil rights. The role of the U.S. Congress in killing all meaningful civil rights legislation was well-known in the mid-20th Century.

So Clark continued with his presentation.

"We come now to one of the most familiar events at the Constitutional Convention," Clark explained. "The adoption of a two house, or bicameral, national legislature. This legislative body, called the United States Congress, was composed of both a Senate and a totally separate House of Representatives."

"At the Constitutional Convention," Clark continued, "the state of Virginia proposed that representation in the national legislature be mainly on the basis of population. The larger the number of people that lived in a particular state, the larger would be its number of representatives elected to the Congress. This proposal was known as the Virginia Plan. It favored states such as New York, Pennsylvania, and Virginia, which had large numbers of residents."

"But a rival plan was presented by the state of New Jersey," Clark said. "This proposal called for equal representation of each state in the national legislature, no matter what a state's population might be. This New Jersey Plan favored states with small populations, such as Maryland, Delaware, and New Jersey."

Clark realized that he was once again telling his faculty examiners things they already knew. He got to the point as quickly as he could. "The resolution of these two plans was a compromise," Clark said, "the renowned Connecticut Compromise. A two house Congress was created with the upper chamber, the Senate, having equal representation that took the form of two senators from each state. The lower chamber, the House of Representatives, was based on population, with the more populous states having more representation in the House."

Clark moved to his main point with a rhetorical question and answer: "And how has this affected American blacks? The Senate, with equal

representation, has become the great defender of Southern states' rights. The South had a smaller population than the North, but each Southern state, no matter how small its population, had the same number of senators as any populous Northern state. The result was the South came to rely on its power in the Senate, the power of less populous states over more populous states, to defeat civil rights bills for black Americans. In some cases, these were civil rights bills that had easily passed in the House of Representatives, where the more heavily populated North could make its pro-civil rights voice heard."

"The Senate thus became famous as the burial ground of all civil rights bills," Clark concluded.

At that moment, Clark Schooler got out of his chair and walked to the chalkboard in the political science seminar room. He took a piece of chalk and drew a large arch on the board. "What I am setting up here," Clark explained, "is an Arch Of Racial Oppression. Black people in America live under an arch of constitutional principles and state laws that greatly limit the black person's liberty and freedom. Tragically, federalism, separation of powers, and bicameralism are three of the major building stones in that arch."

Clark used the chalk to draw three stones in his Arch Of Racial Oppression. He carefully labeled one stone "Federalism," a second stone "Separation of Powers," and the third stone "Bicameralism." He then returned to his seat and continued his defense of his Ph.D. dissertation.

Clark Schooler reviewed the ideas which he and Bernard Martin, his African-American newspaper colleague, had discussed on their airplane flight to Memphis, Tennessee, and the riot at Ole Miss. Clark explained how the Constitution rested police powers in the state governments, and this gave state and local officials the option to willingly "suspend law and order" for United States blacks. Clark then stepped to the chalkboard and added a stone labeled "Police Powers" to his Arch Of Racial Oppression.

Next on Clark's agenda was the guarantee in the U.S. Constitution of trial by jury. Clark described how individual Southerners could harass, beat, and even murder African-Americans and be certain of being found innocent by a jury of their white peers. Giving verbal credit to Bernard Martin, Clark actually used the phrase: "The free white jury that will never convict."

As he added a stone marked "Jury Trial" to his Arch Of Racial Oppression, Clark detected a pained look on the face of Professor Brentwood. Charles Brentwood had spent his entire academic career studying and praising the United States court system. It appeared to hurt Brentwood to see one of the great protections of United States jurisprudence, the jury trial, being described as an instrument for protecting people who illegally perse-

cute minority persons.

And then Clark described the peculiar wording of the 14th Amendment, that post-Civil War constitutional amendment that was supposed to guarantee civil rights to the newly freed slaves. "By using the words 'no state shall,'" Clark said, "the 14th Amendment left individual Southerners free to limit the rights and freedoms of blacks, often by beating them or killing them. The 14th Amendment to the United States Constitution limited the power of the states to harm blacks, but not the power of individuals to do so." Another stone went into Clark's arch, this one labeled "14th Amendment."

At this point William Carpman, professor of history, decided to question Clark carefully about the overall theme and tone of his Ph.D. dissertation. "Clark," Professor Carpman began, "you seem to be describing the Constitutional Convention as a plot against the black people of the United States. You give the impression that our exalted and admired Founders created an 'Instrument of Oppression' in the Constitution rather than, as most people think, an 'Instrument Of Liberty and Freedom.' Let's begin discussing this question by having you tell us exactly how the Constitutional Convention handled the immediate question of human slavery."

Clark was ready for this question. He answered it quickly and deftly. "One of the problems concerning black Americans at the Constitutional Convention was the international slave trade," Clark began. "Many Northern delegates were concerned about the continuing capture of free persons in Africa and their importation into the United States to be sold into bondage. The delegates solved this dispute with a compromise. The slave trade would be allowed to continue for only twenty years after the Constitution was adopted, at which time Congress could abolish it, which Congress did."

Professor Carpman nodded his head in agreement and gave a somewhat sarcastic smile. "You do acknowledge then," the historian said, "that the Constitutional Convention did something for the black person. It provided for Congress to abolish the slave trade as of twenty years after the Constitution was adopted."

Clark was forced to agree with Professor Carpman on this point. "Yes, the Constitution did authorize Congress to eventually do away with the slave trade," Clark said. "But let's not forget that, for twenty long years, from approximately 1788 to 1808, black men, women, and children were physically captured in Africa, were forced to cross the Atlantic Ocean in chains, were jammed into the holds of sailing ships, where thousands of them died from disease, and . . ."

"That's all true," Carpman interrupted, "but the slave trade was finally abolished. The Constitutional Convention was not, as you seem to be

portraying it, totally hostile to the interests of American blacks."

There was a brief period of silence following this mildly heated exchange. Clark finally decided it was his responsibility to revive the conversation and continue his oral examination.

"Also at the Constitutional Convention in Philadelphia in the summer of 1787," Clark began hesitantly, "the delegates debated whether or not the African slaves in the South should be counted when determining how many representatives a state would have in the House of Representatives. The Southern states would have more votes in the House if the African slaves could be counted as well as the free white citizens."

"The end result was a famous compromise," Clark went on. "It was the Three/Fifths Compromise. For every five African slaves living within its borders, a Southern state could count an additional three persons for the purpose of determining representation in the House of Representatives. Thus three additional persons were counted for every five African slaves."

Once again Professor Carpman nodded his head in agreement and gave a sarcastic smile. "You do agree then," Carpman said, "that the Founders, meeting at the Constitutional Convention, at least gave some recognition to the slaves as human beings. The slaves were deemed, at least for counting purposes, as being similar to their white owners, even though the slaves rated only a three/fifths count for representation. For the summer of 1787, I would argue that partial recognition of the slaves as human beings was an important step forward."

Clark felt the need to respond to Professor Carpman's comment. "But the role of the Southerners on this point was so self-serving," Clark noted. "The Southerners were unwilling to extend any legal rights or privileges to the slaves, and certainly not the right to vote, but still the Southerners maneuvered to count the slaves for representational purposes. I have great difficulty seeing such a position on the part of the Southerners as a step forward of any kind. That's everything for the white Southerner, virtually nothing for the African slave."

"In fact," Clark said in a summary tone of voice, "it is interesting to take a second look at both the abolition of the international slave trade and the Three-Fifths Compromise on representation in the House of Representatives. In each case, the African slaves were victims of compromise. Some progress was made, the slave trade was finally abolished, and the slaves were acknowledged to be human enough to be counted as three/fifths of a person for the House of Representatives. But such unfair compromises became a pattern for the future. By being so willing to compromise with the Southerners on racial issues, the Northerners ended up agreeing to a final solution that always left the American black in a weakened, compromised

position."

Clark's comments did not slow down Professor Carpman one bit. The history professor continued with his effort to put the framers of the U.S. Constitution in a more positive light where the treatment of black Americans was concerned. "Once the Constitution was written," Carpman said, "it had to be adopted by the states to take effect. Clark, please describe that process for us. Describe it the way you described it in your Ph.D. dissertation."

Clark Schooler was somewhat frightened by this question. At first thought, the question looked easy. It appeared that Professor Carpman was helping Clark out by asking a question that Carpman knew Clark could answer. But Clark worried about just why Carpman had asked that particular question. Carpman was driving at something. Clark worried that it might be something that could get Clark into a great deal of intellectual trouble.

"For the new Constitution to take effect," Clark answered somewhat nervously, "nine of the thirteen colonies had to officially adopt it. It was well-known, however, that the Constitution would not be very effective if the three most populous states of New York, Pennsylvania, and Virginia did not give their approval."

"The people who supported the new Constitution were called Federalists," Clark went on. "Those who opposed it were called anti-Federalists. The major criticism of the new Constitution by the anti-Federalists was that the new Constitution did not, in specific language, protect the rights of individual citizens from incursions and illegal acts by the new national government."

"In a political manipulation to gain anti-Federalist support for the new Constitution," Clark continued, "the Federalists agreed to add a Bill Of Rights to the Constitution. Thanks partly to this maneuver, the Constitution was adopted by the states. Shortly thereafter, the first ten amendments were added to the Constitution. Written mainly by James Madison, of Virginia, those first ten amendments were the promised Bill of Rights."

Professor Carpman was smiling while Clark was talking, which Clark took to mean Carpman wanted him to go on with this particular line of discussion. "The Bill of Rights spelled out what has become one of the great collections of human rights protections in human history," Clark said with something of a patriotic fervor. "The 1st Amendment, which some people argue is the most important, protected freedom of religion, freedom of speech, freedom of the press, and the freedom to assemble at political meetings and rallies. The 4th Amendment is also considered significant. It protected the people from unreasonable searches and seizures. The 5th Amendment protected a person from self-incrimination, being forced to testify against oneself in a court of law."

"We've already discussed some aspects of the 6th Amendment," Clark went on. "It's the one that mandates trial by jury."

Well aware that his examiners knew what was in the Bill of Rights, Clark quickly related that document to his Ph.D. dissertation. "The problem with the first ten amendments to the Constitution," Clark said matter-of-factly, "is they protect U.S. citizens from the national government but not from state governments. The black person in America did not and does not need protection from the national government in Washington, D.C. The black person in America needs protection from the state governments, specifically Southern state governments. In most cases, the Bill of Rights did not, and does not, provide such protections."

"In fact," Clark said, "the 1st Amendment begins with the words, 'Congress shall make no law,' and then goes on to spell out the rights protected. Courts subsequently interpreted that phrase as meaning the bulk of the Bill of Rights applied only to the United States Government, specifically the Congress, and not to the individual state governments. For instance, the U.S. Supreme Court ruled in the case of . . ."

Clark was stopped in his verbal tracks. Professor Carpman took command of the discussion abruptly and passionately. "True it may be," Carpman said somewhat loudly, "that the Bill of Rights applied mainly to the national government and not to the states. But, frankly, your dissertation misses the point that, no matter how it is applied, the Bill of Rights sets a standard for democratic government."

"The Bill of Rights has been a beacon of liberty and freedom from the very first day it was adopted," Carpman exclaimed. "No matter what the courts say, thanks to the Constitution and the Bill of Rights, all Americans expect to be treated as if they are equal. At school, at work, even in the privacy of their own homes, citizens of the United States expect to have the freedom of religion, the freedom of speech, and all the other freedoms mentioned in the Bill of Rights. Those rights have become part of the internal fabric of the American consciousness."

"I am as displeased with the Southern treatment of black people as you are," Professor Carpman said in a definitive manner. "But when Martin Luther King, Jr., and his followers demand the right to hold meetings in behalf of civil rights, to hold parades in behalf of civil rights, and so on and so forth, they are mainly telling the rest of us to live up to the promises made in the Constitution and the Bill of Rights."

"The recent unpleasantness in Birmingham, Alabama, was mainly over black demands for the 1st Amendment right to peacefully assemble and parade," Carpman went on. "If you ever decide to publish this dissertation, Clark, I suggest you add some positive points about the Constitution and the

Bill of Rights to it. In spirit if not in law, it is the Bill of Rights which is inspiring the current drive for black civil rights."

When Professor Carpman had finished speaking, Clark went up to the chalkboard and added a stone labeled "Bill of Rights wording" to his Arch Of Racial Oppression. Because of Professor Carpman's comments, Clark did not draw that stone with a great deal of verve and confidence. It occurred to Clark that, with his sharp criticisms, Carpman was living up to the nickname given to him by the students at Johns Hopkins, which was "Professor Carping."

As he returned from the chalkboard to his seat, it occurred to Clark Schooler that the assembled professors had taken charge of his Ph.D. oral examination. He was no longer making an orderly presentation of his ideas. As almost always happens in an oral examination, this one had hit the point where Clark was spending all his time responding to questions from his intellectual inquisitors. And they were probing questions at that.

The next attack was led by Charles Brentwood, the political science professor whose special field was American Jurisprudence. Brentwood was currently in the process of writing a book on the United States Supreme Court in the years just prior to the Civil War. Those were the years in the United States when, from roughly 1830 to 1860, the North and the South drifted progressively further apart over the issue of abolition, which was the proposed outlawing by Congress of the institution of human slavery.

"Prior to the Civil War," Professor Brentwood asked in a deprecating tone, "what was all the fuss about a man named Dred Scott?"

Clark was in luck. He had spent a number of pages of his Ph.D. dissertation discussing in considerable detail the case of *Dred Scott v. Sanford*.

"Dred Scott," Clark replied, "was an African slave who was taken out of the slave state of Missouri into the free state of Illinois and the free territory of Wisconsin. Scott was later returned to Missouri, where he sued for his freedom. Scott based his case on the argument that, the moment he stepped on to free soil in Illinois and Wisconsin, he was a free citizen. The time was the late 1840s and early 1850s."

Clark decided to impress Professor Brentwood by making a point that Brentwood had once made while Clark was taking Brentwood's course in American Jurisprudence. "We know nothing of the particulars of Dred Scott's life," Clark said. "His name is on one of the most important court cases in American history, but his name is all we know. It was typical of attitudes toward black people in the mid-1800s that no one considered it important to find out very many personal facts about Dred Scott the person. We know few of the details of where he was born, where he grew up, what work he did as a slave, whether he was married, and so forth and so on.

Even the abolitionists who supported his case did not bother to find out or write down very much about him. Ironically, what we do know are the names of the white persons who owned him and the dates when he was sold from one white person to another."

"The chief justice was Roger B. Taney of Maryland," Clark continued. "Taney was himself a slave owner, and he and a court majority of 7-2 dealt severely with Dred Scott. The court ruled that slaves were not citizens, and therefore Dred Scott could not sue for his freedom in U.S. courts. It was a major blow to the abolition movement for the Supreme Court to declare that, according to the United States Constitution, a slave was not a citizen but actually was a white person's personal property. The decision came at a time when a leading abolitionist, William Lloyd Garrison, was burning up copies of the Constitution in public."

"But Chief Justice Taney and the Supreme Court went even further," Clark pointed out. "The court ruled that, since slaves were personal property, Congress could not prevent white citizens from taking their slaves with them to United States territories, such as Kansas and Nebraska, that had been declared free territories by laws of Congress. This had the effect of declaring unconstitutional the Missouri Compromise, a congressional law that had created free territories as well as slave territories."

"For my Ph.D. dissertation," Clark concluded, "the point is that the Supreme Court, in the mid-1800s, found in the U.S. Constitution the justification for delivering a double insult to American blacks. First, the slaves were not citizens of the United States. Second, the slaves were the mere personal property of their white owners." With that firm remark, Clark went once again to the chalkboard and drew in a stone named "*Dred Scott* decision" on his Arch Of Racial Oppression.

Professor Brentwood was laying in wait for Clark when he returned to his chair at the conference table. "I get the impression," Brentwood said, "that you disapprove of the Supreme Court's decision in the *Dred Scott* case. Why is that?"

"It was a dramatic instance of judicial activism," Clark responded. "Chief Justice Taney and his Southern supporters on the Supreme Court attempted to use the court for political, not judicial, purposes. They wanted to legalize slavery in all the territories, a decision that should have been made by Congress, the legislative branch, rather than by the Supreme Court, the judicial branch."

"Furthermore," Clark continued, "I find nothing in the U.S. Constitution that says that slaves are not citizens. The Constitution refers directly to the slaves as other persons, not as noncitizens. The court was actively making law, which is what judicial activism is. In this case, I think the court

should have practiced judicial restraint, following the exact letter of the Constitution and not trying to make new laws in the courtroom. In my view, the Supreme Court never should have ruled on the question of whether or not slaves were citizens, or whether slaves could be taken into free territories."

At this moment the historian, Professor Carpman, decided to get back into the action. He asked: "Whatever happened to the *Dred Scott* decision? Is it still the law of the land?"

"In practical terms," Clark responded, "the *Dred Scott* decision was reversed by the American Civil War. The South seceded from the Union over the issue of human slavery. However, the North invaded the South, defeated the Confederate armies, and forced the South to remain in the United States. During the Civil War, in 1863, President Abraham Lincoln issued the Emancipation Proclamation, which freed the slaves in those states that seceded from the Union."

"In legal terms," Clark went on, "the *Dred Scott* decision was reversed, immediately following the Civil War, by the three great Civil War amendments. The 13th Amendment freed the slaves. The 14th Amendment attempted to grant the newly freed slaves their civil rights. The 15th Amendment attempted to grant the newly freed slaves the right to vote."

"I used the word 'attempted,'" Clark continued, "because the 14th Amendment and the 15th Amendment never really worked the way their authors intended. We've already discussed the problems with the 'No state shall' wording of the 14th Amendment. That amendment protected black people from actions by state governments but not actions by individuals."

"As for the 15th Amendment," Clark said, "the Southern states got around it by finding other ways to keep blacks from being allowed to vote. One of the most popular techniques was the literacy test. Voting officials in the South required would-be voters who were black to read and analyze complex sections of the state constitution. When the blacks became confused, as anyone but a constitutional lawyer would become confused, the blacks were denied the right to register to vote. No such high standards were set for prospective white voters."

It occurred to Clark that he was now back on the main theme of his dissertation. That theme was that the U.S. Constitution and its amendments were oppressive to African-Americans. He stepped to the chalkboard and drew another stone for his Arch Of Racial Oppression. This stone was labeled "Literacy Tests."

Professor Carpman then asked Clark Schooler why state voting officials had been able to get around the 15th Amendment's clear stipulation that no one be denied the right to vote on account of "race, color, or previous

condition of servitude?" Carpman commented: "I thought the Constitution and laws of the United States were the supreme law of the land."

Clark responded to the question swiftly and knowingly. "The problem lies in another part of the United States Constitution," Clark said. "In Article One, which sets up the Congress, anyone can vote for Congress who can also vote for 'the most numerous branch of the state legislature.' That appears to put the power to determine who can vote firmly in the hands of the states rather than the national government. A subsequent part of Article One gives the U.S. Congress the power to overrule the states where voting is concerned, but so far the U.S. Congress has declined to exercise that power to overrule the states."

Clark made yet another trip to the chalkboard, and added another stone to his Arch Of Racial Oppression. Because of space limitations, all he could get on that particular stone were the words "States Control Voting."

Before Clark had returned to his seat, Professor Carpman was once again biting at Clark's intellectual throat. "Clark," Carpman said. "You've taken my graduate course in 19th Century American history. What's my attitude toward the Civil War and the three Civil War amendments?"

"You think very highly of them," Clark responded cautiously. "In fact, you refer to the Civil War and the three Civil War amendments as the Second American Revolution. You see it as a time when an honest attempt was made to extend constitutional and Bill of Rights protections to minority Americans. The problem with that point of view is . . ."

Professor Carpman cut Clark off in mid-sentence. "Indeed I do see it that way," Carpman said authoritatively. "I see real progress being made. We've advanced from legal slavery in the 1600s and 1700s, to ending the slave trade in 1808, to abolishing slavery altogether in the late 1860s. I mean, the United States fought a bloody Civil War to end human slavery. Clark, it all depends on how you look at it, doesn't it? I see the Civil War amendments as genuine historical progress. You seem to see only the flaws in those amendments."

One of the professors at the Ph.D. oral exam had been essentially silent up to this time. Professor Michael Middleton, the political scientist who had directly supervised the writing of Clark Schooler's Ph.D. dissertation, stepped in and made a procedural comment.

"We're sort of starting to run out of time," Middleton said. "But, there are enough minutes left for Clark to describe a few more major points from his dissertation. Begin to wind it up, Clark, by just hitting some of your major conclusions."

"Well," Clark said, "let's quickly complete my Arch Of Racial Oppression. We have to include another Supreme Court decision called *Plessy v.*

Ferguson. Homer Plessy was only 1/8 black, but he was barred from riding in the white section of a railroad passenger car. Plessy sued, but the Supreme Court ruled that black persons could be racially segregated from white people as long as the facilities were equal in quality. This thus became the famous 'separate but equal decision.'"

"There was a constitutional basis for the court's finding," Clark continued, trying to hurry himself along. "The U.S. Constitution mandates 'equal protection of the laws,' the concept that the laws should apply evenly and equally to all citizens. After the Civil War, the 14th Amendment applied 'equal protection,' as it is usually called, to the states."

"The unusual thing about the *Plessy* case," Clark went on, "is that the court ruled that 'separate but equal' did not violate the constitutional mandate for 'equal protection of the laws.' The result was a more than 50 year period, from 1896 to 1954, that Southern states were allowed, under the U.S. Constitution, to forcefully segregate blacks from whites." Clark stepped to the chalkboard and added a stone marked "*Plessy v. Ferguson*" to his Arch Of Racial Oppression.

While Clark was still at the board, Professor Brentwood asked him a question: "How does the recent decision by the Supreme Court to racially integrate public schools affect your Arch Of Racial Oppression?"

Clark remained up at the chalkboard. "*Brown v. Board of Education* directly reversed the *Plessy v. Ferguson* decision," Clark said. "The Supreme Court ruled that segregation is inherently unequal." With that statement, Clark picked up a chalkboard eraser and erased the stone that he had marked "*Plessy v. Ferguson*." He redrew that part of the Arch Of Racial Oppression in such a way that the two remaining stones came together unevenly, thereby suggesting that the Arch Of Racial Oppression was now a slightly less stable architectural structure. "But *Brown v. Board of Education* is just a start in dismantling the Arch Of Racial Oppression," Clark concluded. "There is still a lot of arch left, and its holding together very well despite the current furor over civil rights."

When Clark had returned to his seat at the conference table, Professor Brentwood decided to pursue the subject of *Brown v. Board of Education* a bit further. "Would you say," Brentwood asked, "that *Brown v. Board of Education* was an example of judicial activism or judicial restraint?"

"Judicial activism," Clark said definitively. "The Supreme Court moved boldly forward to eliminate racial segregation in public schools in the United States."

Professor Brentwood gave a small smile of intellectual triumph. "There's a problem here, Clark," Brentwood said. "You criticized the Supreme Court for using judicial activism in the *Dred Scott* case. You said

it was wrong for the court to try to legalize slavery in all the territories. You said that job should have been left to Congress. But you praised the court for its judicial activism in the *Brown* case, when the court ruled that racial segregation in public schools is unconstitutional. Shouldn't the job of integrating public schools have been left to the Congress?"

Brentwood did not give Clark a chance to answer that question. "Now, you cannot have it both ways, Clark," Brentwood went on. "You cannot condemn judicial activism in one case, such as the *Dred Scott* case, and then praise it in another, to wit the *Brown* case."

Clark had been skillfully caught in a trap of his own making. It was obvious he had no answer for Professor Brentwood's comment. Professor Middleton quickly rescued Clark by saying: "I guess we'll all have to spend some time thinking about that. I, too, condemn the *Dred Scott v. Sanford* decision and praise the *Brown v. Board of Education* decision. Go on with your presentation, Clark."

Clark took a few seconds to look around at the professors gathered for his Ph.D. oral exam. Then he said with great clearness and importance: "Gentlemen. It now is time for me to put the keystone in my arch. The keystone in the Arch Of Racial Oppression is the Senate filibuster."

"The rules of the United States Senate provide that no senator can be interrupted when speaking," Clark began. "The result is that Southern senators can talk to death a civil rights bill by holding the Senate floor and speaking endlessly. One of the most familiar images in American political history is the Southern senator with leather lungs talking forever on the Senate floor in order to keep a civil rights bill from ever coming to a vote. The filibuster prevents the Senate from acting on civil rights. The filibuster thus prevents Congress from acting on civil rights. And the filibuster thereby prevents the national government from acting, in a comprehensive and complete way, on civil rights."

"In my view," Clark said with sincere conviction, "the United States will not solve its civil rights problems until a way is found to overcome the Senate filibuster."

"There is a way to stop the filibuster," Clark went on. "It is called cloture. If 2/3 of the senators vote to stop debate, the filibuster ends and the bill can be passed. But, it is very difficult to get 2/3 of the Senate to vote for cloture. And the Senate has never been able to cloture a civil rights bill."

Professor Brentwood stopped Clark at that point. Brentwood said: "Your Ph.D. dissertation is entitled, 'Black Americans And The United States Constitution.' But the filibuster is not part of the Constitution. It is only a procedural rule in the Senate. You're straying off your topic here, aren't you?"

"Not really," Clark replied confidently. "Many prominent scholars have argued that the filibuster fits nicely with the intentions of the delegates to the Constitutional Convention in 1787. The Senate was created to protect the interests of the small states. In my dissertation, I quote Professor Lindsay Rogers of Columbia University. He gave an interpretation that I have memorized: 'The filibuster is a weapon that the constitutional framers who constructed the Senate failed to anticipate but one that they would view with favor.'" [11]

After delivering that line, Clark went to the chalkboard and, with studied deliberateness, drew in the keystone to his Arch Of Racial Oppression. The keystone was clearly labeled "Senate Filibuster."

Clark Schooler returned to his chair and sat down. There was a brief silence. It was getting to be late afternoon on this particular early summer's day. The air was still warm but beginning to cool down. The sunlight pouring into the room was now coming at a noticeable angle from the west. It was time to end Clark's Ph.D. oral examination and everyone knew it.

Charles Brentwood cleared his throat. He began to speak in a slow and deliberate manner. Professor Brentwood did not look at Clark as he spoke. Instead, Brentwood looked directly at Clark's dissertation. A copy of the dissertation was sitting on the table in front of Professor Brentwood.

"Every point you make in your dissertation is technically correct," Brentwood began. "There is some justification for every stone in your so-called Arch Of Racial Oppression. But there is an overall flaw in your work. You are trying to find values. You are trying to find values for racial equality in a document that was only intended to set up and operate a national government. The Constitution creates the machinery of democracy, but the Constitution does not tell that machinery what to do or what values to discover."

"Our Founders knew what values were," Brentwood continued. "But they also knew that values change over time. They also knew that values can vary from one person to another. The Founders therefore believed in right reason, the idea that human beings could learn together, could progress together, could grow intellectually and socially together. And as human beings change, so must governments."

"To facilitate right reason," Brentwood went on, "the Founders guaranteed freedom of speech, but they did not tell human beings what to say. They guaranteed freedom of the press, but they did not tell human beings what to write and put into print. In short, they created procedures for obtaining values but gave us very little advice as to what those values should be. That's why I and others refer to the United States as a procedural society."

Professor Brentwood decided to further develop this line of thought.

"The Constitution creates the Congress," Brentwood said, "but it does not tell the Congress what laws to pass. The Founders believed right reason would lead the Congress to pass the appropriate laws for the time. In the same way, the Constitution creates the presidency, but it does not tell the president how to execute the laws. The Constitution assumes the president will do what is appropriate at the time he is president. The Constitution contains the machinery for working toward utopia. It contains the machinery for working toward a more perfect human society. But it gives us no clue as to what that utopia should be like."

A temporary hush came over the room when Brentwood finished speaking. Clark's spirits fell. He believed Brentwood's critique had been intellectually devastating. Clark's dissertation had analyzed the Constitution looking for the value of protecting racial minorities. As Brentwood pointed out, the job of the Constitution was to create a national government, and not to tell it what to do.

The hush was short lived. Professor Michael Middleton, the faculty sponsor for Clark's dissertation, came rushing to Clark's rescue. "I think," Middleton said in a voice that rivaled Professor Brentwood's in authority, "that Clark's final conclusion will help clarify things for us. Clark, tell us what that big final conclusion is."

"It is simply this," Clark said, beginning to regain his intellectual confidence. "In order to reap the benefits of the United States Constitution, American blacks will have to overcome the negative effects of that Constitution as represented in the Arch Of Racial Oppression. To put it in more concise terms: In order to benefit from the Constitution, American blacks will have to overcome the Constitution."

Professor Michael Middleton ended this particular Ph.D. oral examination on the spot. Middleton escorted Clark back out into the hallway, instructing Clark to wait while the three professors evaluated his performance in the oral exam. The three professors were going to make the final decision as to whether or not Clark would get his Ph.D.

Clark wandered back to the hallway chair he had been sitting in before his Ph.D. oral examination began. He sat in the chair and realized that his original agenda for his Ph.D. oral exam had been completely derailed. He had gone in hoping to get a Ph.D. "with distinction." Professor Brentwood's and Professor Carpman's comments had made it clear that was not going to happen. Clark found himself hoping that, somehow, the three professors would just give him a plain old Ph.D from Johns Hopkins.

Sitting in his chair, Clark could hear the three professors talking inside the political science seminar room. He could not hear the exact words they were saying, but he could hear enough to comprehend the tone of the

discussion. Periodically voices were being raised, sometimes almost in anger. The more he listened, the more disturbed and fearful Clark became. Clearly, a major argument was going on over whether or not Clark was qualified to receive his Ph.D.

By now it was very late in the day. It was well after 6 P.M., and Gilman Hall was practically empty. Clark's three examiners had to be in a hurry. They were surely going to be late getting to their various homes for dinner. But still the discussion went on. For Clark, one long minute stretched into another. And the muffled voices emanating from the seminar room continued to sound argumentative, combative, and divisive. Clark worried that, the longer the discussion went on, the less chance there was of Clark being awarded a Ph.D.

Then, suddenly, Professor Michael Middleton burst out of the seminar room door, his face smiling. "Congratulations, Clark," Middleton said. "You have passed your oral examination, and you are going to get your Ph.D." Clark was also congratulated, but not quite so warmly and happily, by Professor Carpman, the historian. As for Professor Brentwood, the expert on the U.S. Constitution, he came out the door of the seminar room, looked sternly at Clark, and then turned away and walked briskly down the hall back to his office.

Suddenly the three professors were gone and Clark was standing in the hall all by himself. He walked slowly back into the seminar room. As he looked around, he realized this was one of the last times he would be in this particular seminar room. He was going to get his Ph.D., and that meant he would be moving on and away from Johns Hopkins. This seminar room, where he had both learned and taught a great deal of political science, would no longer be part of his life.

Clark began picking up the three copies of his Ph.D. dissertation. The professors had left them sitting on the conference table. As he did so, Clark noticed that his Arch Of Racial Oppression was still on the chalkboard, exactly as he had drawn it. Clark took a minute to study his arch. It may have been a close call, but Clark's dissertation and its Arch Of Racial Oppression had qualified him to receive a Ph.D.

Clark Schooler then walked to the chalkboard. He picked up a chalkboard eraser. He very carefully and very thoroughly erased the Arch Of Racial Oppression.

As he did so, Clark realized something. It was one thing to wipe a chalk drawing of the Arch Of Racial Oppression off the chalkboard. It would be quite a different thing to wipe that arch away in reality.

In The Interim

The exact language of the United States Constitution can be changed by the amendment process. The first ten amendments, adopted shortly after the Constitution was first ratified by the states, constitute the Bill of Rights. Amendments have produced landmark changes in the Constitution and in life and government in the United States. The 13th Amendment, for example, abolished human slavery.

The meaning and application of the United States Constitution can be changed by decisions of the United States Supreme Court. Such decisions are said to set a precedent. The court thus can interpret, and reinterpret, the Constitution.

Perhaps the great fact about the U.S. Constitution is its durability and adaptability. The American people live happily and productively under the same basic document of democratic government that the Founders first proclaimed more than 200 years ago.

11. Daniel M. Berman, A Bill Becomes A Law: Congress Enacts Civil Rights Legislation, 2nd ed. (New York, NY: Macmillan, 1966), pp. 64-65.