CHAPTER 15

THE SUPREME COURT: THE CONSTITUTIONAL TEST

"The fight over the civil rights bill isn't over yet!"

Bonnie Kanecton said those words to Clark Schooler with genuine concern. "The Civil Rights Act of 1964," Bonnie said, "will not truly be the law of the land until the Supreme Court declares it constitutional."

"Ah, yes," Clark replied. "Judicial review. In the landmark Supreme Court case of *Marbury v. Madison*, the Supreme Court won for itself the power to declare laws of Congress constitutional or unconstitutional. That makes approval by the Supreme Court the final step in the legislative process."

"Well," Bonnie said, "that's not true for every law passed by Congress. But it's true for almost all the major pieces of legislation. Someone almost always files suit charging that some aspect of a new law doesn't conform to the Constitution. And the Supreme Court decides whether that person is right or not. If the person who files the suit is supported by the Supreme Court, the new law, or a key section of the new law, is declared unconstitutional and is no longer in effect."

"And one more thing," Bonnie added. "The United States Supreme Court does not give advisory opinions. It does not sit in that giant marble building across from the Capitol and answer theoretical questions. The United States judicial system is an adversarial system. It is competitive and confrontational. There has to be an actual conflict, which begins in a state court or a lower U.S. court, that makes its way, on appeal, to the U.S. Supreme Court."

"I'm a little uncomfortable," Clark said, "with the fate of my civil rights bill being in the hands of nine older people dressed in black robes."

Bonnie immediately rose to the defense of her chosen profession of the

law. "They're not just nine older persons," Bonnie said. "They are, at any given time in history, some of the finest jurists the United States legal system can produce."

"Each one is appointed by the United States president with the 'advise and consent' of the United States Senate," Bonnie continued. "'Advise and consent' means that the Senate has to approve the president's choice by a majority vote. The president usually gets whom he wants on the Supreme Court, but not always. Sometimes the Senate does turn down the president's Supreme Court appointments."

"Sometimes, but not very often," Clark interjected.

"But it makes such a difference just who the justices are," Bonnie said. "The nine persons sitting on the Supreme Court at the present time mainly were appointed by three presidents. Those presidents were Franklin D. Roosevelt, Harry Truman, and Dwight Eisenhower. Roosevelt and Truman's appointees are essentially liberal Democrats, so I am expecting them to uphold the Civil Rights Act of 1964. Eisenhower's appointees were more moderate, as one would expect from a Republican president, but I'm also expecting them to support civil rights."

One morning in the late fall of 1964, Clark and Bonnie were waiting in line to get into a session of the United States Supreme Court. They were in the main hall of the Supreme Court building, located on 1st Street Northeast, just across the street from the Senate wing of the Capitol.

Bonnie had invited Clark to come with her to see and hear the opening arguments in a case involving the Civil Rights Act of 1964. The owner of a motel in Georgia filed suit to have the Supreme Court declare the public accommodations section of the new law unconstitutional.

"This is an interesting case," Clark said. "The business in question is named the Heart of Atlanta Motel. It's situated just off Peachtree Street in downtown Atlanta, Georgia. Can you believe it? Peachtree Street is where Scarlet O'Hara and Rhett Butler spent much of their time in the great Southern novel 'Gone With The Wind.' And just a little way away, in the Auburn section of Atlanta, is the boyhood home of Martin Luther King, Jr. Atlanta is the perfect city from which the civil rights struggle should be moved into the courts."

"And it's not much of a motel, either," Clark rattled on. "Only 216 rooms. And not nationally known, like a Holiday Inn or a Quality Court or one of those new motel chains that are popping up all over the place."

"And they don't rent rooms to black people there," Clark continued. "They never have. They hope they never will. And, the ownership is so biased, they didn't wait for the Justice Department to come after them. They filed suit first, seeking a declaratory judgement from the U.S. courts that

Title Two, the public accommodations title, of the Civil Rights Act of 1964 is unconstitutional."

Bonnie listened politely to this oration and then said softly: "Your description of this case contains every last colorful detail except for the most relevant facts. Only a journalist would describe a Supreme Court case and bring in so many irrelevant details."

"All that really matters," Bonnie said with mock exasperation, "is that the Heart of Atlanta Motel is readily accessible to Interstate highways 75 and 85. Also, about 75 percent of the people who stay at the Heart of Atlanta Motel are from outside the state of Georgia. To add insult to injury, the motel buys advertising in national magazines. The motel also maintains over 50 billboards along Interstate highways and U.S. highways that solicit business for the motel. The Heart of Atlanta Motel is totally involved in interstate commerce."

At that moment, the doors to the Supreme Court chamber opened and the line of people waiting to observe the court proceedings began filing in. Clark loved the architectural appearance of the Supreme Court building. He particularly loved the marble columns that graced both the front entrance and a number of the interior spaces in the court building. To Clark, those columns were an instant tutorial in Greco-Roman architecture. There were marble columns topped with the square angles of the Doric style. There were columns topped with the curving curlicues of the Ionic style. And, most prevalent of all, marble columns topped with the leafy look of the Corinthian style.

Clark and Bonnie found good seats about five rows deep in the audience. Before them, the polished wooden bench of the Supreme Court rose into the air. From behind that high bench, in almost Jovian fashion, the nine justices would hear and weigh the various arguments in the case. The nine high-backed leather chairs which the nine justices would soon be occupying were visible behind the bench.

The Supreme Court chamber was opulent in terms of decor. Marble columns lined all four walls. A rich red rug covered the entire floor. On the wall behind the justices, luxurious red tapestries hung from the ceiling to the floor. It was, in Clark's eyes, a judicial throne room rather than just another courtroom.

"It certainly is majestic and quiet in here," Clark said to Bonnie with a touch of awe in his voice.

"Don't let the quiet mislead you," Bonnie replied. "This is only the calm before the storm. Some of the most powerful political and economic forces in American society come together to fight it out in this courtroom. The conversation and the overall mood may be civilized and polite, but the

stakes are very high, and the decisions of the Supreme Court have far-reaching effects."

The quiet was suddenly interrupted by the voice of the clerk of the Supreme Court. "The honorable chief justice and associate justices of the Supreme Court," the clerk intoned. The audience was asked to stand as the nine justices, all dressed in black robes, paraded to the bench and sat down in their chairs. Following that, the lawyers that would be arguing cases that day filed in and sat at highly polished wooden tables in front of and below the bench. The lawyers for the Justice Department were dressed in formal morning clothes. The other lawyers were dressed in dark conservative business suits and neckties.

Clark Schooler was impressed by and supportive of the elaborate pomp and ceremony of the United States Supreme Court. These regal proceedings were more than appropriate, Clark thought, given that these nine judges were the constitutional guardians of the United States.

"It really is awe inspiring to be here," Bonnie whispered softly to Clark. "In its own unique way, the Supreme Court is a recreation of the Constitutional Convention held in Philadelphia in 1787. The Supreme Court tells us what the Constitution means, but those meanings can be changed by the court from one epoch to another."

For the next two hours, Bonnie and Clark watched and listened as each set of lawyers argued the case strongly. The lawyers for the Heart of Atlanta Motel hammered away on state's rights and private property rights. The U.S. Government answered back with the interstate commerce clause.

A number of days later, the justices of the Supreme Court published the decision in the *Heart of Atlanta Motel* case. As Bonnie had predicted, it was a unanimous decision for civil rights by a vote of 9 to 0. The justices reaffirmed the decision of a lower U.S. Court that Title Two of the Civil Rights Act of 1964 was constitutional and that the motel must begin serving "transient black persons."

The Supreme Court noted in the decision that the American people had become increasing mobile over the years and that black Americans in particular had been subject to discrimination in "transient accommodations." Travel conditions for blacks had become so difficult, the court said, as to necessitate the listing of available lodging for black Americans in a special tour book, which was itself "dramatic testimony" to the difficult problems black people encountered when traveling.

And then came the part of the decision that Clark liked best. In one pithy sentence, the Supreme Court of the United States declared the public accommodations provisions of the Civil Rights Act of 1964 to be constitutional.

The exact words were: "We, therefore, conclude that the action of the Congress in the adoption of the act as applied here to a motel which serves interstate travelers is within the power granted to it by the commerce clause of the Constitution, as interpreted by this court for the past 140 years."

And there was a bonus for Clark Schooler with this particular decision by the Supreme Court. In a companion case to *Heart of Atlanta Motel*, the Court took up *Katzenbach v. McClung*. This suit, filed by the U.S. Department of Justice, concerned racial discrimination at Ollie's Barbecue, a family owned restaurant in Birmingham, Alabama.

Ollie's specialized in serving barbecued meats and homemade pies to a predominantly local clientele. Although 2/3 of the employees at Ollie's Barbecue were African-Americans, Ollie's was segregated and served only white customers. Furthermore, the restaurant's lawyers argued, Ollie's had a Southern white clientele that would stop eating at Ollie's if the dining area were racially integrated.

"The owners of Ollies's Barbecue have a much better case than the owners of the Heart of Atlanta Motel," Clark explained to Bonnie as he read the text of the decision to her. "Their barbecue pit and pie ovens are eleven blocks away from the nearest Interstate highway. They get virtually no business off the Interstate. They rely almost completely on local trade. And, knowing the prevailing sentiments in Birmingham, Alabama, on race mixing, I find it believable that Ollie's will lose lots of customers if they start serving black people there."

Bonnie gave Clark a condescending look and said with false sweetness: "Sometime I'll have to tell you about the love affair between the U.S. Supreme Court and the commerce clause of the United States Constitution."

Bonnie got it right. In a second unanimous decision, the Supreme Court ordered Ollie's Barbecue to racially integrate its eating facilities. The court noted that approximately half of the meat that was cooked and served at Ollie's moved in interstate commerce. That was all it took. In the exact words of the court, which Bonnie savored as she heard Clark read them: "The only remaining question, one answered in the affirmative, is whether the particular restaurant serves food, a substantial portion of which has moved in interstate commerce."

When he had absorbed the decision on Ollie's Barbecue, Clark Schooler's thoughts raced back to the day, some six years earlier, when Clark had observed the unsuccessful attempt to integrate the White Dinner Plate restaurant at the Monarch Shopping Center in Baltimore. It was the same day that Clark, without realizing it until much later, had met Bonnie Kanecton, who was leading the demonstration. On that day, Clark ruminated, the men and women protesting racial segregation had stood virtually alone and

unsupported. But now, on this day, just a little more than half a decade later, the U.S. president, the U.S. Congress, and the U.S. Supreme Court were solidly behind the goal that Bonnie and the other White Dinner Plate demonstrators had set out to achieve.

"Well, that's it," Clark said to Bonnie, putting down the text of the court's two decisions. "The deed is done. The play is finished. We have reached completion. The third of the three branches of the United States Government, the judicial branch, has given its blessing to the Civil Rights Act of 1964. The final 'i' has been dotted. The final 't' has been crossed."

"Not quite," Bonnie replied, but in a friendly and happy manner. "Many other provisions of the Civil Rights Act of 1964 will be tested before the Supreme Court. But the court will do its job. The court will fill in the blanks left by Congress. The court will apply specifics to the more general rules and regulations made by the Congress and signed into law by the president of the United States."

Shortly thereafter, four young people set off on a double date of a somewhat different sort. Clark Schooler and Bonnie Kanecton and Carl Brimmer and Vonda Belle Carter were all driving up to Gettysburg, Pennsylvania, to see the Civil War battlefield there. It was late December of 1964, just a few days before Christmas. Both the work level and the news intensity in Washington, D.C., were quieting down as political newsmakers and their assistants began leaving the nation's capital for extended holiday vacations.

"This really is the wrong time of year to visit Gettysburg," Clark said to no one in particular. "The battle was fought in early July of 1863, with southern Pennsylvania at its hottest and stickiest. But, by going in December, we will be a lot more comfortable, albeit a little chilly, than the Union and Confederate soldiers were."

It was a typical East Coast winter's day. The sky was filled with low hanging, wall-to-wall clouds. But no snow or rain was falling or predicted to fall. And the outside temperature was in the high 40s, a pretty good temperature for walking around an old battlefield.

The four young people had wanted to celebrate the successful enactment of the Civil Rights Act of 1964 and the upholding of the public accommodations section by the Supreme Court. In one way or another, all four of them had worked hard for the bill to be passed. It was Clark who suggested they go to Gettysburg. That was partly because Gettysburg was an interesting place to visit. It was also partly because of Gettysburg's historical significance in the struggle for racial equality.

Because he grew up in Baltimore, Maryland, which was only a one-hour drive from Gettysburg, Clark had visited the battlefield many times in

his life and knew it well. When he learned that none of his three companions had ever been to Gettysburg, Clark offered to both drive them up there and give them a personal tour of all the significant battle sites.

"Carl and I have something to tell you," Vonda Belle Carter said from the back seat of Clark's car. She and Carl were sitting back there holding hands.

Vonda Belle draped her left hand over the front seat where Bonnie could see it. Just as Vonda Belle had intended, Bonnie's eyes widened and then Bonnie half screamed: "It's a ring. It's an engagement ring. You're getting married!"

"That's right," Carl Brimmer said from the back seat. "We don't really love each other," he added sarcastically. "We just want to strike one more blow for American civil rights by having a racially mixed marriage."

"That's our Carl," Clark chimed in. "I should have known Carl would plan a wedding night with more politics than romance involved."

"Hey, you guys," Vonda Belle said in a complaining tone. "We're serious about this. And it's not going to be easy to pull off, either."

Clark continued the lighthearted approach to the upcoming event. He asked: "What's the problem? Did Senator Richard Russell of Georgia refuse to give the bride away?"

Carl quickly picked up on Clark's sarcastic political humor. He quipped back: "Russell wouldn't do it, so we had to get Senator Eastland from the Judiciary Committee instead."

Vonda Belle insisted on treating the subject seriously. "We've just been through a heavy-duty round of telling our respective families," she said. "It was hard to tell who was more upset. Carl's family because he's going to marry a black woman, or my family because I'm going to marry a white man."

"I have to give them all credit," Carl Brimmer added. "They all struggled mightily to be nice about it, congratulate us, and say that everything would be fine. That was the problem. You could tell they were all struggling mightily."

"I hate to say it," Vonda Belle lamented, "but my fine, upstanding, all-for-civil-rights black family was more upset than Carl's family was."

"The worst part comes later," Carl commented. "One of your beloved family members gets you alone for a serious conversation. They ask: 'You're not really going to do it, are you?' Then they start winking their eye at you and say: 'I'm sure it's a lot of fun to be playing around with a black woman, but (wink) a little bit goes a long way (wink). Fun's fun, but (wink) do you think it's a very good idea to marry one of them?'"

"Oh, yeah," Vonda Belle said. "And then they start on the children bit.

I'm not talking about diehard Southern segregationists here. I'm talking about our all-out liberal family and friends who sincerely believe in racial equality. They whisper softly to me over in a corner: 'Have you thought about your children? The poor things won't be either black or white. They'll be unwanted in both worlds. It's not you and Carl we are worried about. It's your half-black, half-white children growing up in a mentally and emotionally segregated society.'"

Clark Schooler felt his jaw clenching and his hands gripping the steering wheel of his car more tightly. Clark was suddenly embarrassed. He realized the things that Vonda Belle's and Carl's family and friends were saying were things that Clark Schooler himself might have said, and wanted to say.

Interracial marriage was a very emotional and challenging subject, even for people who considered themselves total liberals on the civil rights issue.

"You just did me a big favor," Clark said to Carl and Vonda Belle with great seriousness. "You headed me off at the pass from saying all those things myself. I just might have taken Carl to one side and asked: 'Have you thought about this carefully?'"

But Clark also realized that logic impelled him to give his all-out support to Vonda Belle and Carl and their marriage plans. Clark spoke out: "The ultimate argument of the racial segregationists was always, 'Would you want your son or daughter to marry one of them?' Blacks and whites will never totally be free until they can marry one another with no fears or regrets whatsoever, both on their part and the part of their friends and relatives."

"I wouldn't worry about the children," Bonnie added. "The Civil Rights Act of 1964 is really going to change things. At least legal equality is now the law of the land. Your children will grow up in a much more racially integrated world than the segregated one we all grew up in."

By this time they were driving around the battlefield in Gettysburg. In his best reportorial and professorial manner, Clark began his lecture on the great Civil War conflagration. "General Robert E. Lee, the Southern commander, was making a major drive into the North," Clark began. "His goal was to capture Harrisburg, Pennsylvania, a major railroad center, and then drive toward Philadelphia. General Lee hoped that a quick string of Confederate victories on Northern soil would frighten President Lincoln into ending the Civil War and letting the Southerners secede in peace."

Clark took his three friends to all the major battle locations at Gettysburg. At Little Round Top, Clark pointed out how the Confederates almost captured this significant piece of high ground. Only quick action and hard fighting by Union troops prevented the Southerners from taking this major

hilltop and using it to fire artillery shells at the Northern soldiers arrayed along the ridge line below.

Clark drove his friends along Seminary Ridge, the point from which General Lee launched Pickett's Charge, an all-out, go-for-broke infantry assault on the Union line. Then Clark drove around to the other side of the battlefield, to where the Union Army was waiting for its Confederate attackers.

Clark had his three friends get out of the car. He marched them to a spot on the Gettysburg battlefield known as the Angle.

"This is what I really wanted you to see," Clark said, standing by a bend in a low stone wall. "This is as far as the Southern attack got at Gettysburg. It was also as far North as General Lee's Southern army ever advanced. This spot has been called, 'The high water mark of the Confederacy.'"

"The fighting here was particularly fierce," Clark went on. "The toll in lives lost, for both the North and the South, was enormous. But the Union soldiers drove back the rebels. From that point on, the end of the Civil War and the freeing of the slaves were inevitable."

"I often think about the Union soldiers who fought here at the Angle," Clark continued. His friends appeared to be more than interested in what he was saying. "It was just by accident that those particular soldiers were here. A real twist of fate. But those Northern soldiers got the job done at the critical moment. For one day, fighting desperately for this piece of ground, those particular men were living on the forward edge of their time."

"I thought about this spot a lot when the Civil Rights Act of 1964 was enduring the challenge of the Senate filibuster," Clark said. "All of you have heard me say many times that the civil rights movement was a refighting, almost exactly 100 years later, of the American Civil War. If that idea has merit, then the Southern filibuster of the civil rights bill was the 1960s version of Pickett's Charge at Gettysburg. In both instances, the Southerners were giving it all they had. They were making one final attempt to preserve the Southern way of life, whether that way of life was human slavery in 1863 or racial segregation in 1964."

"And, in conclusion," Clark said, realizing he was subjecting his friends to quite a lengthy oration, "the cloture vote on June 10, 1964, was the modern equivalent of what happened here at the Angle at Gettysburg. The Southerners tried desperately to defeat the cloture vote on the Civil Rights Act of 1964. But the Southern senators were defeated and thrown back on cloture day, just as the Southern army was defeated and thrown back at this spot on this battlefield."

"A number of historians have called the fighting here at the Angle the

turning point of the Civil War," Clark added. "In the same way, I regard the cloture vote on the civil rights bill as the turning point in the civil rights movement. From that day on, June 10, 1964, the defeat of racial segregation as a legal part of American life will become inevitable."

The four young people had been standing in a circle facing each other while Clark had been speaking. At one point during Clark's oration, without anyone actually suggesting it, they had all four taken each others' hands. They remained that way when Clark finished speaking.

It was Bonnie Kanecton who broke the sentimental and endearing silence. "I think I agree with you, Clark," she said. "In a legislative rather than a military way, we have been like the brave soldiers who fought here at the Angle at Gettysburg. All of us, each in his or her own way, worked hard for the Civil Rights Act of 1964 and sought to counter its opponents in any way possible. And, these past few years, like the soldiers here at Gettysburg, we have all four lived on the forward edge of our time."

In The Interim

The Civil Rights Act of 1964 was the first of three major civil rights bills to be passed by Congress and signed into law by President Lyndon Johnson during the 1960s.

The Voting Rights Act of 1965

One aspect of racial discrimination that had not been corrected by the Civil Rights Act of 1964 was denial of voting rights. Large numbers of Southern blacks were prevented from voting by legal devices such as literacy tests. Early in 1965, Martin Luther King, Jr., attempted to lead a march from Selma, Alabama, to Montgomery, Alabama, to protest the various Southern stratagems that prevented African-Americans from registering to vote and casting a ballot on election day.

Martin Luther King and his supporters began their march by walking across a bridge over the Alabama River leading out of Selma. This peaceful, nonviolent demonstration was met by Alabama state troopers, some of them mounted on horseback, who fired tear gas into the crowd of protesters and began beating people with billy clubs. The resulting television images and front-page newspaper photographs instantly produced a nationwide demand for legislative action by Congress.

President Lyndon Johnson jumped at the chance to exploit such a golden opportunity. Johnson gave a speech to a joint session of Congress in which he called for national voting rights legislation. Under Johnson's

proposal, U.S. Government registrars would go into the South to register blacks to vote. Johnson concluded his speech with words from a song being sung by civil rights workers throughout the nation. Those words were: "We shall overcome!"

Quickly beating back a Southern filibuster with a cloture vote, the Senate joined the House in rapidly enacting President Johnson's voting rights proposal. The speed with which cloture was attained in the Senate was credited to the precedent set by the victorious cloture vote on the 1964 civil rights bill.

The Voting Rights Act of 1965 had immediate effects in the American South. African-American voter registration increased to more than 50 percent of those eligible to vote in six Southern states. Most important, there was a dramatic increase in the number of blacks winning elected offices, such as city mayor and county sheriff, throughout the South.

The Housing Rights Act of 1968

In the spring of 1968 in Memphis, Tennessee, African-American garbage collectors went on strike against the city government for higher wages and better working conditions. The strike was hard fought. The black sanitation workers ran into a solid wall of opposition from Memphis city officials, most of whom were white.

Martin Luther King, Jr., heeded the call to come to Memphis and give his moral support to the garbage men and their economic demands. On April 4, 1968, while standing on the balcony of the motel where he was staying in Memphis, Martin Luther King, Jr., was killed by a rifle bullet. As news of King's assassination spread throughout the nation, outraged citizens, most of them black, took to the streets to protest the willful killing of America's renowned civil rights leader. There were riots in over 130 U.S. cities, with 46 persons killed and over $100 million in property damage.

Once again a dramatic national news event generated a legislative opportunity. A housing rights bill, which had been slowly working its way through Congress, was immediately put on the fast track to enactment. The bill prohibited racial, religious, and ethnic discrimination against minority groups in the sale and rental of housing. The bill was universally viewed as a fitting final legislative memorial to the slain Martin Luther King, Jr.

After being passed in the Senate, the final version of the bill was passed in the House of Representatives after only one hour of debate. The date was April 10, 1968, just six days after Martin Luther King, Jr., was killed. President Johnson signed the Housing Rights Act of 1968 into law on the following day.

The Minority Bill of Rights

Looked upon as a group, the three great civil rights acts of the 1960s can be characterized as the Minority Bill of Rights. In the four decades from the 1960s to the 2000s, these three laws protected all United States minorities, not just blacks, from most overt and clearly identifiable forms of legal discrimination. The Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Housing Rights Act of 1968 are the enduring legislative fruit of the civil rights movement of the 1960s.

School Busing

In 1971 the United States Supreme Court ruled that it was constitutional for black students to be bused to white schools and for white students to be bused to black schools. The purpose of such crosstown school busing was to try to end de facto segregation of public schools.

This court decision, Swann v. Charlotte-Mecklenburg, was hailed by civil right supporters as a way of partially overcoming the reality that white students tended to live in exclusively white neighborhoods and black students resided in all-black neighborhoods.

But school busing met tremendous resistance from white parents who did not want their children bused across the city to black schools in black neighborhoods. In a number of cities, most notably Boston, Massachusetts, hostile whites took to the streets to protest school busing. Often white parents would stage a school strike by keeping their children home rather than having them bused to distant schools with large numbers of minority students.

One effect of court-ordered school busing was to encourage white families to move out of central cities, where their children would be bused, and relocate in surrounding suburbs, where school systems remained predominantly white.

To compensate for this white flight to the suburbs, city school systems began creating magnet schools. These were center city schools designed to attract students who wanted a specialized curriculum, such as an emphasis on advanced science classes or classical music courses. Magnet schools were relatively successful at attracting white students from the suburbs to go to center city schools with significant numbers of minority students.

The Bakke Case

In 1978 the Supreme Court once again rendered a major decision

concerning American civil rights. In the case of University of California Regents v. Bakke, the court ruled that a college or university could not set specific quotas for the number of minority students who were to be admitted to the college or university. In other words, an educational institution could not designate a specific number of spots in an entering class of students that would automatically go to minority applicants.

The Bakke case, as it is popularly known, stirred up a storm of protest from civil rights advocates. But at the same time the Supreme Court outlawed quotas in the Bakke decision, the court also ruled that colleges and universities could take race, religion, and ethnicity into consideration when making admission decisions. Only specific numerical quotas for minority groups were outlawed. The Bakke decision thus gave institutions of higher learning the flexibility to continue to make extra efforts in attempts to attract and admit minority students.

An Enduring Struggle

The proper role of the United States Government in the protection of minority rights remains a subject of continuing debate in American society.

As was true of Clark Schooler and his friends and acquaintances, every generation of Americans must contend with the reality of racial discrimination and find appropriate solutions "on the forward edge of our time."