Judge, and first appearance in any Court, was lately before the Supreme Court in an integration case—a tremendous leap even for a Kennedy.

If I may interject a personal statement: I come from a football family, and we all admired the stardom in that field of "Whizzer" White. But he, no doubt, would readily admit that decking a husky youngster out in football togs does not make a football star, anymore than hanging black cloth on a politician will make a Judge. That the benign Goldberg had a special ability, too, is admitted. If these two apply themselves to their Judicial duties as faithfully as in their preceding specialties, we may wishfully expect that in time they will attain Judicial stature. In the meantime, they share the power of the other SUPERMEN.

It is never enough, however, just to say that an old law is out of date and haul off and break it. Correct Judicial procedure requires that somewhere something professed to be superior must be found to justify the law breaking.

Where better than in the old reliable 14th Amendment? So these modern Isaac Waltons baited their hooks with the Swedish bait, and went fishing in those bottomless waters.

What they caught is the prize fish story of all fish stories, surpassing in that field of exaggeration all others, except only that one banishing God from public school rooms.

That part of the Amendment to which the right fish story could apply reads:

> "No state shall make or enforce any law which shall deprive any person within its jurisdiction of the equal protection of the law."

Since the schools were equal in the instant case, nobody had been denied the equal protection of the law on that score. The Swede solved that obstacle. The separation would make the Negroes feel bad; but not the whites. So the "generation" of this feeling bad was adopted as granting the Federal Judiciary a new area of control in passing on laws enacted by the authorized lawmaking powers.

The **Integration** fish had been landed. The next, it may be expected, given time for new breeds to hatch—will be the **miscegenation** shark.

This addition of the state of the **feelings** of

groups of people in considering the application of this Amendment, has opened a vast new field, so vast indeed that the imagination cannot encompass where it will end.

Crowds of adult Negroes have lately been persuaded that a large number of their relations with whites, heretofore not suspected, make them feel bad—not eating at the same tables, swimming in the same pools, sitting on the same toilets, and such—and they are filling the Courts with demands, and the streets with "demonstrations," that they be made to feel better by intimate association in these matters—forced by Judical decrees, and new law enactments. The inherent admission of implied inferiority to be cured by these intimate social and school ties is ignored. Also ignored in these "demonstrations" is that the right to "assemble and petition for a redress of grievances" requires that such assemblies be "**peaceable**." Are they?

The unexpected catch of this feel bad fish in the school case met with shouts of joy from the surprised New Yorkers, who from the first promoted only suits claiming inequality in such "tangible" things as building, curricula, teacher qualifications, salaries, etc.

Now the objective was quickly changed, and the New Yorkers, mainly an organization called the Association for the Advancement of Colored People, the well-known NAACP, sent out emissaries, at first only to the South, but later to all parts of the country, to teach the Negroes how to feel bad about a variety of things besides not mixing in schools. This went exasperatingly slow in the beginning, for the innocent Negroes did not know that they should feel bad about these things. In fact, they were feeling pretty good about the advancement they were making along all lines in America. An example of their progress is noted even in bad old Mississippi. Governor Barnett of that State, quoted in the June 3rd issue of the U.S. News and World Report, said:

> "We have Negroes who own their own businesses, quite a number of them wealthy businessmen. There are more than 27000 Negro farmers who own title to land valued at approximately 100 million dollars. More than

27% of the privately owned homes in Mississippi are owned by Negroes. We have Negro professional people, such as lawyers, doctors, teachers, dentists, social workers, nurses and many others."

Does that sound like the grade of inferiority that the Court must cure by "side by side" contact with whites? Is that really poor achievement for the Negroes in the last fifty years, when both black and white in the South got the chance to move upward economically?

Propagandists refer to the "plight" of the American Negro. What in fact is that plight? The Census Bureau has released figures for 1960 showing that the Negro in the United States has an annual income exceeding that of the whole people of France, Germany, Italy, Russia, Norway, Mexico, Japan—and equal to that of Great Britain, $1150.00. Only Canada, Australia, Switzerland exceeds that level.

Nevertheless, the agitators made progress, at first having to pay some of the Negroes to feel bad. The NAACP with its annual expenditure of one million dollars, according to its public audit, was the leader. But at once, Northern politicians, sensing votes to be had, hypocritically sprang into the act.

Progressively in the last year, discovering that feeling bad about all sorts of things, and shouting "equality," could get their names in a sensation-seeking press, and their pictures on TV, Negroes are filling the streets with hysterical yelling mobs of men, women and children, disturbing the public peace, lying down in public places, throwing pop bottles and stones; their ministers making political speeches disguised as prayer; in short, having the time of their lives in all these forms of emotional excitement.

Bored by the monotonous routine of preaching the gospel, white ministers, not indifferent to their names and pictures being broadcast, can persuade themselves that they are martyrs by going to jail for a few days.

Then there are other white ministers who from higher stations in their clerical organizations, speak with pompous authority, who expect the populace to be impressed that they had just received a tele-

phone message from God directing them to spring to the front of marching, lawbreaking Negroes, demanding "rights"—claiming the constitutional right of "peaceable assembly." One wonders at the colossal conceit of these men, who imagine, or profess to believe, that God had withheld such instructions from their learned and spiritual predecessors; awaiting till these chosen ones should appear. One may suspect that among these, too, "the itch for the praise of fools," is not absent.

Teenagers, according to a pattern emerging all over the world join in "demonstrating." Maiden ladies and frustrated wives, lying down in the streets and offices, force police to drag them off bodily; not a little titillated by indecent exposure.

Many of these come from distant places to do their bit; ignoring the opportunities in their own back yards. Dickens etched this type indelibly in **Bleak House** a hundred years ago, describing Mrs. Jellyby who was "involving the devotion of all my energies," as she said, in improving the condition of those unfortunates away off yonder—in her case—Darkest Africa; while her own children were ill clad, unwashed, ill nourished, one of them tumbling down stairs, so that a visitor could count the sounds of his bumping head as it struck each step; and another "crying loudly, fixed by the neck between two iron railings," "while Mr. Guppy, with the kindest intentions possible endeavored to drag him back by the legs, under a general impression that his head was compressible by these means." **To all of this, Mrs. Jellyby was serenely oblivious, while she made diapers for the babies of the Congo, and "discussed the Brotherhood of Humanity, and gave expression to some beautiful sentiments."**

Not to be left behind their brethren of the South in all these "demonstrations," the Northern Negroes are going at it on so large a scale as to scare the tar out of their politicians; and these, in their consternation that they have aroused barbarous emotions which they cannot control, are crawling on their knees, begging for restraint, lest these riotous eruptions turn Northern white voters against them, and they will lose their jobs. Callous to all else, they neither think nor care what all this will do to the poor Negro. It takes no major prophet to foresee that a check in Negro advance-

ment will come; a setback which may last for decades; and the innocent Negroes will see that they have been deceived by heartless self-seekers, and will turn on the leaders, both white and black, who have cost them so much.

FEELING BAD AS AN EXCUSE FOR BREAKING THE LAW

As we have seen, the NINE MEN have as a reason for breaking the old law of separate if equal, that it made **Negroes** feel bad.

How easy it will be to extend that feeling bad defense to persons charged with crime. We have State laws prohibiting and punishing all sorts of acts deemed against public safety; acts from the disturbance of the peace to stabbing, murder and rape. What a laugh it would be for a culprit called before the Courts for breaking one of these laws to plead: "I reject that law. To condemn me as it requires, will make me feel bad." And what a carnival of crime would ensue. **That is exactly what has happened from the lawbreaking judgment of 1954 of these politicians sitting on a supposedly Judicial Bench.**

Not only have mobs gathered in streets, marching and yelling, disturbing the public peace under the mask of right of assembly, making speeches to God under the blasphemous guise of the sacred rite of prayer; throwing pop bottles and stones at the police; **but felonious crimes have multiplied—murders, rapes and stabbings**. Most frightening of all, murderers and rapists, tried and condemned to death before State Courts, may now be observed peering from beneath the black robes of Federal Judges, where for years they have basked in security; protected by some technicality of the law discovered by these SUPERMEN.

At this writing there are twenty-six (26) tried and condemned to execution in the Angola Penitentiary of Louisiana; three whites for murder; and twenty-three Negroes, nine for aggravated rape and fourteen for murder. Four of the Negroes sentenced in 1957; 1 in 1958; 1 in 1959; 1 in 1960; 8 in 1961 and 2 in 1962.

Two of the Negro rapists in Angola were condemned for raping white women in the state capital at Baton Rouge. Their exemption from execution has encouraged the nephew of one of them to

another rape of a white woman in that city, taking place July 6th, 1963. Police know that the rape of white women by Negroes has multiplied since 1954; not more than one out of six or seven being brought into the Court, the victims not wanting their shame publicized. Within the last week a Negro has been identified by his victims, and charged with attempted rape of one nun and the beating of another, within their convent walls; in New Orleans. How many in all Southern States?

In Washington, where it was expected that the concentrated glare on integration would disclose everybody made happy, the contrary is proven by a record of crime since 1954, exceeding that of any city of comparable size in the country. Washington, where a white American soldier may be killed on the streets, scarcely noticed, while on the same day, trumpets blare for a murdered Negro buried in Arlington. Washington, where white women may be assaulted by a Negro in a church in sight of the Capitol, and in their homes, while their men only whimper, lest they lose votes, or their jobs. Did I say **men**?

Based on his personal observations, no doubt the Negro Congressman Adam Clayton Powell bragged for the nation to read:

"We have the white man on the run. After him, men; sic 'em." Some Congressmen, unnamed, have been quoted as saying "We should take a recess." Take a powder, they mean.

It is impossible to believe that even Washington would inflict that disgrace on the American people in the face of approaching Negro thousands. Let them take heart. We are informed that right up front, there will be some of Hollywood's quick-draw heroes to keep order; along with some nice white gentlemen in clerical garb sidling up to the camera boys.

What would the Father of his country say, if he could see this city named for him, become a jungle; a monument to the folly of the SUPERMEN?

It is unbelievable, that when a young Negro was condemned to execution for raping and murdering an elderly white woman in Washington, and released by the Supreme Court; Mallory vs. U.S. 354 p. 441 in 1957,—one of the Judges is reported to have remarked afterward, "After all he was but

a lad." The "lad" was reported to have promptly committed another offense in Pennsylvania, and killed by Police. The technicality on which this convicted murderer and rapist was freed to commit another crime, is simply too incredible to put down if it were not verifiable by reading the decision. The question of guilt was of no concern. He was released because, for some reason he was committed to prison, and not questioned until seven hours had passed. It is not now in the recollection of the writer whether the Court fixed a time within which the questioning must begin; say one hour, ten minutes, and twenty-five seconds, or possibly ten seconds longer. But it is a fact that law enforcement officers the nation over are dismayed lest this ridiculous and indefensible holding of the Court, results in freeing many vicious criminals.

Who is to blame for setting the example of lawbreaking? On whose shoulders should horrid responsibility settle for these crimes?

THE ADVANCEMENT OF THE NEGRO OBSTRUCTED BY THESE PAID AGITATORS

More than fifty years ago, June 4th, 1910, in the Outlook magazine, Theodore Roosevelt quoted with approval the statement of Sir Henry R. Johnson:

> "That nowhere else in the world, certainly not in Africa, has the Negro been given such a chance of mental and physical development as in the United States. Intellectually he has attained his highest degree of advancement as yet in the United States. Politically he is freer there; socially he is happier than in any other part of the world."

The ex-President added: "The book is of great interest and permanent value; and should be in the library of every American who cares to devote a little thought to one of the largest of the problems of today." Quoted from Book Review, printed in the words of Theodore Roosevelt, Vol. XII, pp. 221-2.

This progress had continued up to 1954. Fine public schools built solely for Negro children, taught by competent teachers of their own race who best understand them, have multiplied all over the South. This day go into hundreds of communities and one will see that the newest and most

modern schools and campuses are for the Negroes, **a fact concealed from the Northern people**. The greatest Negro University in America, is in Louisiana—five miles from the State Capitol, beautifully located on the Father of Waters. This Negro University has all the trimmings that the white State University has; located two miles from the State Capitol. (Maybe that is an offense, being three miles further from the State Capitol than the white). It has full academic courses, granting degrees at a regular graduating exercise (upwards of 500 in June 1963); homecomings, fraternities and sororities, football and other sports, bands and cheerleaders. There is nothing collegiate, social, and cultural, on the white campus not also seen on the Negro campus.

Negro graduates at other Negro colleges in the state total 401, not including the privately endowed Dillard in New Orleans, a large and well-managed Negro University whose attendance and graduate level is not at the moment available to the writer.

In the school year just closing there were 286,605 Negro students in 164 Negro High Schools, with 8,876 graduates in Louisiana, with a total population in 1963, estimated as 3,300,000—less than the population of Chicago. It would be interesting to compare these figures with those in Chicago.

In the smaller state of Mississippi, near the population of Philadelphia, to quote Governor Barnett again, there are "more than 4000 Negro students in State supported colleges; 7,382 Negro school teachers in the Negro public schools with masters' degrees and above; and of 190 million dollars spent on public schools since 1953," in this by no means rich State, "63% went for Negro public school facilities." There is much more in the Governor's interview by U.S. News and World Report that would show misinformed Northerners that the Negro is better off in Mississippi, than in the great Northern cities. But presenting a fair picture of the condition of the Negro in Mississippi, or any other Southern state, to the Northern people cannot be expected so long as the egalitarian mania persists.

There is some sense in the Negro making a plea for a job. He cannot stay on relief forever; be-

sides most of them have the pride of preferring to work to mooching on the taxpayers; but the cry of lack of employment is something recently thought up by those who profit by agitation. Heretofore those who presumed to speak for them; those whose real object is to cause racial division and clash; those who were stirring to howling complaints, sit-ins, lie-ins and butt-ins, were eloquent with phrases as meaningless as they are sonorous —"human dignity," "plight of the Negro," "social revolution." A favorite is "second-class citizenship," used in a sense which disregards good conduct as the indispensable duty of "citizenship." A later one is produced by Bobby Sox,—"Human rights are superior to States' Rights." Whatever meaning Bobby attaches to this bombast, it is certain that for him States' Rights do not exist. Another is in constant use,—"discriminate." Would these good white men of the clerical cloth, who are opposed to "discrimination" refuse a daughter's hand to one of the lusty young Negro "demonstrators?" Maybe these particular show offs would not. Ask them.

IMPENDING DESTRUCTION

Is the advancement of the Negro made in the United States in the last hundred years, and especially in the South in the last fifty years, to be ignored, obstructed, possibly destroyed by the vote hustlers, financial profiteers, and gullible do-gooders?

When the unsuspecting Negro is being aroused to heights of insurrection passion, white men and women of the South, of good will and compassion —and these are, or were, in the vast majority— are reluctantly compelled in self defense to remind all concerned, that in his own country of Africa he made no advance whatever in the 6000 years that the white man was painfully creating the civilization of which now in American the transplanted Negro has the advantage.

Is it unkind to suggest to Martin King, Wilkins, et al, that if their ancestors had remained in Africa; what with disease, tribal wars, and cannibalism, they might not have survived to become sires of these descendants now demanding so much from the white man's civilization in America?

In those 6000 years that the Negro achieved

nothing in his own country of a hundred million—in Egypt, next door to him, her engineers constructed the Great Pyramid 5000 years ago, an amazing feat still puzzling to moderns. Separated from Caucasians of the West by the vast length and height of the Himalayas, the Yellow Chinese more than 2000 years ago built the Great Wall 1400 miles long, to protect them from the Mongolian Hordes—the Empire then more than 1000 years old, with great cities, and art and literature. The Brown Japanese boast of a culture 2000 years old when Christ was born. And when Columbus crossed the sea, he found 3000 miles from Western civilization, the rich culture of the Red man, which Cortez and Pizarro pillaged in the Halls of Montezuma and Golden Palaces of the Incas.

In referring to the kindly feeling existing between the races in the South before the Supreme Court caught its integration fish, I beg to interject a personal note. I was born and reared on a cotton plantation in North Louisiana; grew up with Negro playmates; know their good qualities when not deceived and misled; and I am saddened when I perceive what is in store for them under a leadership so fraudulent as to be criminal. One of my playmates, bedridden in his home in his last years, I never failed to visit when frequently visiting his section of the State. We would spend a happy hour recalling incidents of our boyhood and early manhood. I can assure our Northern fellow citizens, that there were many thousands of such relationships between Negroes and whites of the South.

So far as the South is concerned there is more seeming than fact in all this Negro hurrah. The Negro is by no means the fool that the front runners of his race are making him out to be. I haven't the least doubt that the majority of them within their own thoughts, wish these disturbers would subside. But as is frequently the case with the whites, these remain quiet lest they be censured by the more vocal, or even injured.

BREAKING ONE LAW CALLED FOR THE BREAKING OF ANOTHER

The politicians sitting on the Supreme Bench in **1954** did not stop with breaking the old law of **1896**. Having decided what will make the Negro

feel bad, they went on to the next step, and determined that they must do something to make him feel good. But here they were confronted with another Constitutional obstacle; the specific declaration in the very same 14th Amendment (Sec. 5) that only

> "Congress shall have the power, by appropriate legislation, to enforce the provisions of this Article."

But what if Congress did not agree with what the SUPERMEN professed to have discovered in this Article, since it was not so written; and what if Congress did not take any stock in what the Swede & Co. said about it making the Negroes feel bad if they could not be right there by the side of the whiteman in whatever he was doing—leaving the presumption that he had no ideas, likings, business, or choices of his own. There are in fact many Congressmen, especially those from the South, who do not believe any such thing. They have known and lived beside the Negroes all their lives, and they are quite positively certain that the Southern Negro would prefer to have his own schools and teachers, and run his own affairs; and that all the commotion whipped up by New York, et al. is just so much profitable poppycock.

But since the SUPERMEN had gotten away with it before, they decided to go it alone in this case. The judgment they issued required the District Judges:

> "To take such proceedings, and enter such orders and decrees, as are necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed," the parties to the case.

This has been expanded so, as a matter of course, the Federal Judges, and not Congress, are "enforcing the provisions" of the 14th Amendment.

It will be noted that in the accompanying specific instructions to the District Judges, the SUPERMEN delegate to these Judges the rights and duties—which they had themselves usurped—to break State laws or local ordinances, and enact others to take their places. These are the precise instructions given to the District Judges:

"Full **implementation** of these constitutional

principles (meaning those which they had inserted in the Amendment) may require solution of local school problems . . to that end Courts may consider problems relating to administration, arising from the physical condition of the school plant, the school transportation system, personnel, **revision of school districts** and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and **revision of local laws and regulations which may be necessary** in solving the foregoing problems."

Even King Jehosaphat did not assign such whopping jobs to his Judges. Presumably these District Judges know all the multiplied aspects of public school management required of a competent Superintendent of Public Education who has learned them by many years of observation and practice; or they must instantly learn them—in what school not stated. It is a marvel that more of them do not reluctantly assume these added executive duties; but maybe very many **are** reluctant but are scared of the SUPERMEN—except some who may be eager for earned promotion; such as our New Orleans District Judge Skelly Wright, whose quick promotion is expected to entice others to follow his example.

That the SUPERMEN quite well understood that they were usurping the exclusive authority of Congress, is perceived in their evasion of the word "enforce" when they instructed the District Judges to "implement" their judgment. In their embarrassment, they tried, not too cleverly, to escape from the specific constitutional limitation, by adopting a word to take its place. They have said repeatedly that their decisions shall be "**implemented**" (meaning "enforced") by the directions they gave to the lower Judges. The word **implement** as a verb is not found in any legal dictionary, the old reliable Bouvier, Ballantine, or the 1951 edition of Black. The lower Judges have understood their superiors quite well; and have issued orders and decrees by the dozens to "enforce" the provisions of the 14th Amendment, the exclusive right of Congress so to do be damned. The Courts have also adopted another word to serve their purposes—

"desegregate" which was not in any dictionary, academic or legal, until it was inserted in Webster's International Dictionary in 1959.

So we find the Court in the business of supplementing the English language to convey its meaning in the assault on the Constitution. It will not be long before the Federal Judiciary will ease into the use of the word "integrate," as a substitute for "desegregate." Then it will have gone the whole hog. The thin mask will be completely off. There will be no need for Congress to exercise its specifically granted and exclusive power to "enforce" integration of the races in all cases where the lack thereof is alleged to make the Negro feel bad. The obliging Federal Judiciary will do it.

STILL MORE LAWBREAKING AND LAWMAKING

It soon becomes obvious that in lawbreaking by an all powerful governmental body like the SUPERMEN, some very serious and **dangerous lawmaking** must follow in its wake to carry out their enactments. The Court has ordered integration of the races wherever demanded by NAACP; and masks off, proposes to enforce their commands by expanding the rule of Contempt of Court to punish noncompliance.

The world over when the lawmaking power enacts a statute where a compliance is required or a violation punished, the same law fixes a penalty for disobedience. The limitation of punishment is clearly stated, generally in such terms as "fined not more than" so many dollars, or "imprisoned not exceeding" a term stated.

Again the world over, there the lawmaker stops. It is left to another and not self-interested authority to hear and condemn breaches, and assess punishment with the stated limits. There was a time three hundred years ago when the Divine Right Kings claimed the right, (called Prerogatives) to make laws, fix punishment for noncompliance, try culprits, and clap them in jail; all without the intervention of Parliament. Those Divine Right claims petered out when one was exiled, and another had his head chopped off.

A revival of that right is now claimed, or at least apparently threatened by Federal Judges.

Under the guise of well-known and admitted right to maintain decorum in their court rooms, to require witnesses to answer proper questions, and enforce a well-known general line of Court orders, noncompliance with their **integration** laws, orders, and decrees is now threatened with unlimited fines or incarceration in jail, without the right, as old as Magna Carta of 1215, to a trial by jury of their peers. The authority for this taking away the property and liberty of American citizens, specifically prohibited by Articles of the Constitution (appended), they will call Contempt of Court. In that procedure, the lawmaker, the prosecutor, the Judge, and the executioner will all be centered in one person,—contrary, it is repealed, to a universally admitted principle, and specifically prohibited by the Constitution.

Some imaginative journalists have speculated on the infliction of fines as much as one hundred thousand dollars, and imprisonment up to ten years. It is remarkable that in mentioning these possibilities, these generally well-informed men, did not express the slightest dismay. That is how far we have gone in our indifference to the warning of the Harvard Professor that, "Never in recorded history has the individual been in greater danger from government than now."

It may take the infliction of such punishment to awaken complacent Americans to their peril, lest their liberties so valiantly and bloodily fought for by their ancestors, will fade away under the tyrannical rule of uncontrolled SUPERMEN.

"Power corrupts; absolute power corrupts absolutely."

When the sage, Benjamin Franklin, in his old age, was asked by a lady, after the adoption of the Constitution in 1787, in the confection of which he took an active part, "What kind of government have we now, Mr. Franklin?" He replied, "A Republic, Madam, so long as the people hold fast to it."

Are the people "holding fast to it?" It is concealed from them that in this country there are determined and influential men who, in the language of Jefferson, "are mining and sapping at the foundation of our Constitutional government," with the aim to center all power in pressure groups at

Washington; robbing the States of the guarantees of the right to manage their local affairs; reducing them to the level of provinces.

OBEY THE LAWS? LET WASHINGTON SET THE EXAMPLE.

APPENDIX
PERTINENT PROVISIONS OF THE FEDERAL CONSTITUTION
Article III

Section I. The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The trial of all crimes, except in cases of impeachment, **shall be by jury; and such trial shall be held in the State where the said crime shall have been;**

* * *

(Note: "The Courts derive their powers from the grant of the people made by the Constitution and they are all to be found in the written law, and not elsewhere." Wheaton vs. Peters, 591, 658; Bucher vs. Cheshire, 125 U.S. 555. "It must therefore find its power to punish the crime in laws of Congress passed in pursuance of the Constitution, defining the offenses and prescribing what courts shall have jurisdiction over them. No act can be a crime against the United States which is not made so or recognized as such by federal constitution, law, or treaty." U.S. vs. Hudson; 7 Cranch, p. 32; Cooley Principles of Constitutional Law, p. 138.

AMENDMENT V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment of a grand jury . . . **nor shall any person be deprived of life, liberty, or property** without due process of law . . .

AMENDMENT VI

In all criminal prosecutions, the **accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and District wherein the crime shall have been committed.**

* * *

EQUALITY DEFINED

Under the 14th Amendment "equal protection" means "that every man's civil liberty is the same with that of others, That Men Are Equal before the law in rights, privileges and legal capacities. Every person, however low, or degraded, or poor, is entitled to have his rights tested by the same general laws which govern others." Cooley, pp. 235-6.

* * *

AMENDMENT XIV.

"Section 1. . . . No State shall make or enforce any law which . . . shall deny to any person within its jurisdiction the equal protection of the laws."

(Note: "The guarantee of equal protection is not to be un-

derstood, however, that every person in the land shall possess precisely the same rights and privileges as every other person. The amendment contemplates classes of persons, and the protection given by the law is to be deemed equal, if all persons in the same class are treated alike under like circumstances and conditions both as to privileges conferred and liabilities imposed." Cooley, p. 237. Citing authorities.

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

With reference to enforcement, it may be said that no one will deny that when an authority is granted in the Constitution, it is exclusive, unless otherwise stated.

The application of the authority granted to the Congress here to enforce the provisions of the article, by appropriate legislation, denies to the Supreme Court the right to "enforce its provisions" by the enactment of any law by it; or to enforce its provisions by the formulation of "orders and decrees" which amount to enforcement. That is to say, that when Congress has enacted appropriate legislation to prohibit states from denying equal protection of the laws in any instance—in the racial cases here, the judiciary can ascertain when such legislation is violated, and apply the remedies set out by the Congress.

What the Court has done in the school case, for instance, is this in effect: It has inserted in the Amendment substantially these words:

> "The amendment contemplates Federal control of public education in the States. Therefore when a State enacts legislation providing separate schools for the races, that legislation is prohibited as denying equal protection to the Negro race."

Having found, in effect, that language in the Amendment, as one of its provisions, the next question should be whether Congress has enacted appropriate legislation to prohibit state laws violating the provision. If Congress did not know that such legislation by the States is prohibited by the Amendment; or if Congress should recognize this Judicial Amendment, but has not enacted any legislation to enforce the prohibition; does that give the right to the judiciary to "enforce" it. The Supreme Court has answered that question by again inserting in the amendment, in effect, these words: "But if Congress does not see fit to enforce the prohibition by appropriate legislation, the Supreme Court may do so by its own decision;" and may "**implement**" their decision by such "orders and decrees" as may be necessary to take the place of the missing act or acts of Congress, and "may provide unlimited punishment for noncompliance with its decrees."

In eluding the exclusive right of Congress to "enforce the provisions" of the Article, by using the word "implementation," and other expressions, we observe all the arts of a slick politician in writing this decision. The wonder is that the others who had been on the Bench for some years, could be persuaded to follow him along these twisting trails.

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