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THE JUDICIARY ACT OF 1789 AND THE AMERICAN JUDICIAL TRADITION*

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You have doubtlessly heard the praise that Charles Dickens lavished upon Cincinnati, one of the few places that enticed him during his travels through 19th Century America. "[T]he Judges here were gentlemen of high character and attainments," he wrote. "The society with which I mingled was intelligent, courteous, and agreeable. The inhabitants of Cincinnati are proud of their city as one of the most interesting in America: and with good reason."[1] Chief Justice William Howard Taft was perhaps the most illustrious product of that social and judicial tradition, although a special place of prominence must also be accorded another of Cincinnati's leaders, my immediate predecessor on the Supreme Court, Justice Potter Stewart. Perhaps no Justice of the Supreme Court, past or present, can rival Chief Justice Taft's remarkable career prior to appointment to the Court: Solicitor General at age 32, Civil Governor of the Philippine Islands, federal Circuit Court judge, Secretary of War, and President of the United States. Along the way, Chief Justice Taft also distinguished himself as dean and professor of property at the law department of the University of Cincinnati. Despite these varied honors, Chief Justice Taft's greatest commitment lay with the law and the judicial tradition. "I love judges, and I love courts," he once said. "They are my ideals, that typify on earth what we shall meet hereafter in heaven under a just God."[2]

* This address was delivered on September 29, 1989 at the University of Cincinnati College of Law as the William Howard Taft Lecture.

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1. C. DICKENS, 22 WORKS: AMERICAN NOTES 376-77 (1891).

2. A.T. MASON, WILLIAM HOWARD TAFT: CHIEF JUSTICE 19 (1964).

Chief Justice Taft's commitment to this Nation's federal judicial process is part of a tradition that extends back at least two centuries, to the passage of the Judiciary Act of 1789, the subject of my remarks today. Since 1987 we have enjoyed a number of bicentennial observances. While most attention this year has focused upon the French Revolution, there is another bicentennial event we should recall and celebrate this year. It is the enactment of the Judiciary Act passed by the First Congress of the United States on September 24, 1789. This Act stands at the beginning of a tradition that has well served the entire Nation and is one that all American's should continue to view with pride.

For Americans, the legal system plays a special role in how we preserve what we most value as a nation and in how we strive to become the nation that we aspire to be. The Judiciary Act was a crucial, foundational part of that American tradition of seeking to perfect the Nation through considered change in accord with the rule of law. This impulse underlies many of the Nation's greatest successes and remains as important today as it was 200 years ago. In celebrating the Judiciary Act, we celebrate those people who have sacrificed to protect that legal tradition, and we recognize the overwhelming majority of Americans who continue to endorse the values embedded in that tradition.

The Judiciary Act established many of the Nation's fundamental legal institutions. As mandated by the Constitution, the Act established the Supreme Court of the United States and set the number of Justices, originally at six. The Office of the Attorney General arose from the Judiciary Act. And the First Congress, exercising the discretion explicitly vested in it by the Constitution, chose to create a system of subsidiary federal courts, in addition to the Supreme Court. Because this decision was essential to the creation of an independent federal judiciary, Justice Felix Frankfurter and James Landis deemed it the Act's "transcendent achievement."[3] The Act's nationwide network of federal, "district" trial courts continues to this day. Thankfully, a group of permanent Circuit Court judges has replaced the Act's Circuit Court system—which employed local District Court Judges and visiting Supreme Court Justices, who literally "rode the circuit" of the intermediate courts scattered throughout the country.

While providing for an independent federal judiciary, the Act recognized the competence and vital role of the States and their judicial systems. Congress vested only a small portion of the

3. F. FRANKFURTER & J. LANDIS, THE BUSINESS OF THE SUPREME COURT 4 (1927).

jurisdiction permitted by Article III exclusively in the federal courts, leaving the rest either to be exercised by the state and federal courts concurrently, or by the state courts alone, in the first instance. The Act's Sec. 25 considerably strengthened the national role by giving the Supreme Court the authority to review certain judgments of state courts on issues of federal law. This provision was vital to the Nation's development. Justice Oliver Wendell Holmes claimed that, in contrast to the judicial power to declare Acts of Congress unconstitutional, "the Union would be imperilled in we could not make that declaration as to the laws of the several States."[4]

Because this one Act of Congress established so many lasting, fundamental elements of the Nation's judicial system, it has deservedly won much praise. Justice Henry Brown in 1911 deemed the Judiciary Act "probably the most important and most satisfactory Act ever passed by Congress."[5] A more recent commentator, the late Professor Paul Bator, notes that since its passage, the Act "has ever since been celebrated as 'a great law.' "[6]

The Judiciary Act marked the last great event in our Nation's founding and formed the genesis of our Nation's continuing constitutional revolution. It is the last of the triad of founding documents, along with the Declaration of Independence and the Constitution itself. The Declaration of Independence made clear that our revolution sought to defend our Nation's most basic liberties and values: the Constitution gave form to the government that would protect those liberties and the common good. That government would succeed, and those liberties would be protected, only through the Nation's commitment to the legal process and the rule of law. The Judiciary Act fulfilled that commitment.

For 200 years we have remained committed to the rule of law—to respect for the legal process that protects what our Nation most values, while allowing debate on what most needs change. The federal judiciary has often been the focus and defender of that tradition which has served us for two centuries. The judges who have so well performed the duties prescribed for them deserve our continuing gratitude.

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4. 1 C. WARREN, THE SUPREME COURT IN THE UNITED STATES HISTORY 17 (1937) (quoting Address before the Harvard Law School, Feb. 15, 1913, *reprinted in* SPEECHES OF OLIVER WENDELL HOLMES (1913)).

5. Warren, *New Light on the History of the Federal Judiciary Act of 1789*, 37 HARV. L. REV. 49, 52 (1923) (quoting *Address before the American Bar Association*, Aug. 20, 1911).

6. Bator, *Judiciary Act of 1789*, in 3 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 1075, 1075 (1986).

A comparison of the legal revolution engendered by the Judiciary Act and the course of the French Revolution illustrates this Nation's distinctive commitment and approach. The French Revolutionaries valued reason, and assumed that pure acts of will, guided by reason, would allow them to construct the ideal society. That revolution was transformative, seeking to uproot that which had gone before. Our Nation's revolution was by contrast essentially a conserving one: conflict and institutional change appeared necessary to protect traditional liberties, community structures, and personal rights. Change, in this view, must take place through means in accord with law and must build upon that which has gone before.

Each revolutionary tradition contained different conceptions of the legal process. The French Revolutionaries, on balance, perceived law as an instrument of power. Law to them at first appeared merely to be the bulwark of the Old Order, and thus the legal system was an oppression that had to be overthrown. Once in power, the Revolutionaries used the law to reconstruct their world. Law became an instrument to eradicate "undesirable" social orders, to ensure state control over the economy, and even to transform time and space. The revolutionaries redivided the calendar and gave each portion a new name; more familiar to us is their newly crafted system of measurement, the metric system.

By contrast, the American Revolutionaries embraced the legal process as their chosen means of protecting the values that the Revolution had vindicated, and of providing for the community's peaceful, continuous evolution. In this sense, the Judiciary Act created the vehicle for this ongoing process of measured, considered change. Yet that Act created only the mechanism of that change. In the end, the Nation's hope rested with those who safeguarded the legal process and with those who believed that law should govern all citizens impartially, that citizens must resolve their differences through the democratic process as provided by law, and that the legal process must be valued as the means of preserving that which is most fundamental to the Nation.

The course of France and the United States in the years following their respective Revolutions of 1789 illustrates their differing approaches. The French Revolution did, at least for a brief period, transform society. Succeeding cadres of revolutionaries stripped away the institutions and customs that stood between the centralized state and the most intimate details of each citizen's life. Various factions declared various rights and each time set the French Nation upon a new course. Violence tore at the country: the civil war and executions that took hundreds of thousands of lives in the

Vendee; the near anarchy of the September 1792 Massacre of the Innocents; the organized political violence of the Terror; and finally the foreign wars that led to the rise of Napoleon and the end of the revolution.

During the same period, the United States was in comparison a tranquil place. We often overlook how much, at least in domestic affairs, disagreement was cast in legal terms and often resolved in debates about or through the legal process. Many of the great conflicts of the time possessed this character. Alexander Hamilton's financial plans were often debated as an issue of the constitutionality of the First Bank of the United States. So too, debate over the Alien and Sedition Acts became a struggle over the powers granted by law to the national government. The trial of Aaron Burr, the attempted impeachment of Justice Chase, the debate over the scope of the common law of crime, and the conflicts surrounding President Adams' midnight appointments (culminating in the case of *Marbury v. Madison*[7]) suggested that the Nation would define itself through debate within and concerning the legal system and the distribution of powers allowed by law. Our Nation has of course had its periods of awesome violence and conflict, and the judiciary when it has strayed from its appointed role has hindered peaceful political change and heightened divisions between opposing parties. The Court's *Dred Scott*[8] decision, contributing to the onset of the Civil War, is only the most notorious and harmful example of judicial interference in the political process.

Yet on balance our commitment to change consonant with the rule of law has continued and prevailed, and accords a special role to the legal process. To be sure, the legal system addresses only those issues thrust upon it, and in this manner only marks the shadows cast by more important institutions and social forces—especially the legislative process and ongoing debate among citizens about the Nation's future. Even so, those who serve the legal process have played a crucial role in protecting and shaping the varied aspects of our constitutional system, as well as our Nation's devotion to change and continuity balanced through commitment to the rule of law. A brief mention of the contributions of some of the Nation's great judges illustrates three aspects of that commitment: the importance of a strong and independent federal judiciary; due accord by that judiciary for the legislative process; and adherence to the rule of law, even in the face of considerable popular opposition.

7. 5 U.S. (1 Cranch) 137 (1803).

8. Scott v. Sandford, 60 U.S. (19 How.) 393 (1856).

The fourth Chief Justice of the United States, John Marshall, contributed as much as any other person to that first element of our judicial tradition, ensuring that a strong and independent judiciary serves the Nation. It is no overstatement to claim that Chief Justice Marshall fulfilled the Constitution's promise of an independent federal judiciary. While the Judiciary Act provided the foundation for the eventual development of our judicial tradition, much of what is distinctive and praiseworthy in the subsequent development of the federal bench can be traced to Chief Justice Marshall's efforts.

Although it may be difficult to imagine our Nation without an independent and vigorous federal judiciary, that fortunate result was hardly foreordained. The Supreme Court considered very few cases during its first years and produced opinions that were marked by division. All but one of the original Justices left the Court after a relatively brief period of service. While on the Court, several Justices vigorously participated in partisan political activities—leading in one case to a nearly successful impeachment effort. Unsurprisingly, the Supreme Court possessed neither public trust nor a particularly prominent national role. Congress suspended the Court's Term so it would not be able to consider certain cases, and many of the most prominent statesmen—Thomas Jefferson and James Madison included—argued that the States rather than the Court should finally determine certain constitutional issues. When President John Adams offered to reappoint former Chief Justice John Jay to the Court, Chief Justice Jay declined, replying that the Court could not "obtain the energy, weight, and dignity which were essential to its affording due support to the National Government, nor acquire the public confidence and respect which, as the last resort of the justice of the nation, it should possess."[9]

Chief Justice Marshall's great achievement was to rescue the Court, and by extension the federal judiciary, from this dire state and to fashion a role not unlike that which exists today. As one legal historian has concluded, "[t]he genesis of the American judicial tradition was the transformation of the office of appellate judge under John Marshall."[10] Chief Justice Marshall unified the Court, which began to issue single, unanimous opinions in most cases. The Court became more independent. Under Chief Justice Marshall, Members of the Court largely ceased participation in partisan activities. While the Court's efforts continued to engender criticism, as they inevitably do, those criticisms were based upon differences regarding fun-

9. G.E. WHITE, THE AMERICAN JUDICIAL TRADITION 9 (2d ed. 1988).
10. *Id.*

damental legal principles rather than upon the personal behavior of individual Justices.

Largely through Chief Justice Marshall's efforts, the Court also assumed a role commensurate with its status under the Constitution as one of the three branches of national government. In *Marbury v. Madison,* Chief Justice Marshall established the Court's ability—even responsibility—to judge the constitutionality of statutes passed by Congress when judges are called upon to apply them. It was a section of the Judiciary Act which the Court declared unconstitutional in *Marbury.* The Marshall Court also asserted the federal judiciary's responsibility to pursue its interpretation of the Constitution in the face of contrary assertions by state legislatures, state judges, or officials of the Executive Branch.

Beyond establishing the judiciary's unique and co-equal constitutional role, the Court under Chief Justice Marshall's leadership interpreted the broad provisions of the Constitution to allocate power among the other, often competing institutions in the federal Union. Through a series of landmark cases, Chief Justice Marshall carved out a broad role for the exercise by Congress of its limited powers. At a time (quite unlike the present) when the power of the States threatened to engulf the still undefined powers of the new national legislature, Chief Justice Marshall's opinions ensured that the states could not frustrate the legitimate efforts of Congress—especially efforts to regulate the national economy. And in other cases, Chief Justice Marshall pioneered the Court's role in protecting individual rights against unconstitutional intrusions by state or national government. By the time of Chief Justice Marshall's death in 1835, the Court was a respected institution, sufficiently powerful and independent to fulfill the role provided for it by the Constitution.

Another Chief Justice, William Howard Taft, succeeded brilliantly in continuing and building upon Chief Justice Marshall's efforts to strengthen the federal judiciary. Chief Justice Taft was responsible for many of the institutional changes that have allowed the federal judiciary to adapt and respond to the great demands of 20th Century America. Chief Justice Taft was instrumental in creating the institutions needed to manage and coordinate a federal judicial system, instead of the previous, loose amalgamation of individual judicial districts. He crafted and lobbied for the legislation that gave the Supreme Court a great deal of control over its own docket, and the construction of the Supreme Court's own building may be traced almost entirely to Chief Justice Taft's efforts. Chief Justice Taft envisioned a judicial system that would be a more efficient and effective instrument of justice, open to all citizens with worthy claims and

able to respond to the legal demands of modern times. To fulfill this vision, he sought to unify and simplify the federal rules of procedure, combining the disparate practices existing in law and equity and placing them under the supervision of the Supreme Court. This goal was not fulfilled until after Chief Justice Taft's death, but would not have come to pass without his efforts. Reflecting upon Chief Justice Taft's efforts to transform the federal judiciary, Justice Felix Frankfurter concluded that "Taft's great claim . . . in history will be as a law reformer."[11] Justice Frankfurter ranked Chief Justice Taft's accomplishments next to those of Chief Justice Oliver Ellsworth, the principal drafter of the Judiciary Act of 1789. While Chief Justice Ellsworth devised the judicial system, "Chief Justice Taft adapted it to the needs of a country that had grown from three million to a hundred and forty million."[12] Indeed, the judicial system so largely shaped by Chief Justice Taft now accommodates the needs of a Nation of two hundred and fifty million.

A later group of judges built upon Chief Justice Marshall and Chief Justice Taft's successes by accommodating the power of the federal judiciary to the values of democracy and to the demands of change in early 20th Century America. These judges brilliantly displayed the second characteristic of our Nation's legal tradition: that the judiciary, though powerful, must not trammel the legitimate operation of the legislative process. This group includes many of the giants of the field—Justice Oliver Wendell Holmes, Judge Learned Hand, and Justice Felix Frankfurter—an taught us that one value the independent judiciary must strive to protect is the ability of the community to define its future in accord with the rule of law.

Chief Justice Marshall had been, in a sense, nearly too successful in establishing an independent and strong federal judiciary. By the end of the 19th Century, the federal judiciary was so powerful that certain judges' view of broad provisions of the Constitution led the courts to invalidate a range of Congressional and especially State legislation. The stricken measures often attempted to confront the problems associated with an expanding national economy, increasing industrialization, and often violent labor strife. The great contribution of Justices Holmes and Frankfurter and of Judge Hand is their reminder that judges cannot, ultimately, presume to direct the Nation's ongoing process of change accomplished through the legislative process: that judges are citizens like others in the republic and not, in Judge Learned Hand's phrase, Platonic Guardians.

11. Frankfurter, *Chief Justices I Have Known*, 39 VA. L. REV. 883, 898 (1953).
12. *Id.*

All three judges drew their theories of judicial restraint from their skepticism that those in power possess some ultimate truth. As Justice Holmes wrote, "when men have realized that time has upset many fighting faiths, the may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas."[13] These judges doubted claims of superior knowledge or wisdom put forth by those who would displace legislators' considered judgment. This lesson applied differently, when judges interpreted statutes and when they assessed those statutes' constitutionality. In terms that bear repeating, Judge Hand laid out the task of a judge who must interpret a statute:

> [T]he judge must always remember that he should go no further than he is sure the government would have gone, had it been faced with the case before him. If he is in doubt, he must stop, for he cannot tell that the conflicting interests in the society for which he speaks would have come to a just result, even though he is sure that he knows what the just result should be. He is not to substitute even his juster will for theirs' otherwise it would not be the common will which prevails, and to that extent the people would not govern.[14]

Similar concerns, stemming from democratic theory and from the recognition that legislators must be allowed to confront the Nation's many problems, mandated a degree of restraint in deciding constitutional issues, too. Judge Hand praised Justice Holmes for his caution in applying the theory of the day to place constitutional barriers before the legislatures: "That caution in the end must rest upon a counsel of skepticism or at least upon a recognition that there is but one test for divergent popular convictions, experiment, and that almost any experiment is in the end less dangerous than its suppression."[15] This fear—that unjustified constitutional decisionmaking will foreclose political compromise and debate—cannot be underestimated. Judge Hand and Justices Frankfurter and Holmes formed their views in part because they watched the strife and bitter, often violent conflict following in the wake of the Court's decisions striking labor and other social welfare legislation. As I suggested earlier, *Dred Scott* stands as the most tragic reminder of the wisdom of Justice Holmes' views. Even today, the Court risks interfering with the political resolution of issues that deeply divide this Nation.

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13. Abrams v. United States, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

14. L. Hand, *How Far is a Judge Free in Rendering a Decision?* in THE SPIRIT OF LIBERTY 79, 84 (1959).

15. L. Hand, *Mr. Justice Holmes at Eighty-Five,* in THE SPIRIT OF LIBERTY 18, 21 (1959).

In a few quarters, this theory of judicial restraint lies in some disrepute, but it is not, as critics may argue, to be confused with an absence of belief or with opposition to "progress." Justice Holmes was a fervid abolitionist and later nearly died as he lay wounded in the midst of a Civil War battle. Even as a judge, Judge Hand participated in the Progressive reform movement led by President Theodore Roosevelt. Before donning his robes, Justice Frankfurter involved himself in a range of social causes: investigating labor unrest, defending Sacco and Vanzetti, and advising President Franklin Roosevelt during the New Deal period, to name a few. Yet all three recognized that as judges, they were not charged with crafting the ideal world. They all touted Professor Thayer's observations that excessive judicial interference dulls citizens' attention to and responsibility for first principles and that "[u]nder no system can the power of courts go far to save a people from ruin; our chief protection lies elsewhere."[16] Only the Nation's commitment to its fundamental beliefs and to the legal process will preserve the country and its citizens' liberties; judges alone cannot forestall considered and needed change, nor should they follow the model of the French Revolutionaries and attempt to replace their inheritance with one particular version of the ideal society.

On the whole, this view of the judicial role triumphed and became an essential element of our Nation's legal tradition. States and the Congress were increasingly able to confront a broad range of social problems in this century, and their constant experimentation has led to labor legislation, environmental laws, regulation of many aspects of the economy, and a vast array of social programs. While many in our society may disagree with particular measures, a broad consensus has formed that judges will not pass upon the wisdom of these measures. Judges will uphold the great commands of the Constitution, but will also recognize that one of the Constitution's great lessons is that "We the People" ultimately govern the Nation and protect our liberties, and are ultimately responsible for the Nation's success or failure.

I will provide one more, quite different example of the best of our Nation's judicial tradition: that tradition is adherence to the rule of law, even when that adherence draws widespread popular opposition. If Justices Holmes, Frankfurter, and Judge Hand taught that judges should not interfere unduly with the democratic process, an equally strong aspect of the judicial tradition is that no person or

16. Thayer, *The Origin and Scope of the American Doctrine of Constitutional Law*, 7 HARV. L. REV. 129, 156 (1893).

group, however powerful, is above the law, or can subvert the products of the legal process. One group of federal judges, those who applied the teaching of *Brown v. Board of Education*[17] in the old Fifth Circuit (whose jurisdiction included many of the Southern States), deserves special mention for their service in upholding this ideal. They demonstrated the courage and commitment that maintain our Nation's commitment to considered change through adherence t o the rule of law.

In portions of the Nation, the 1950s and early 1960s presented unusual tension between the clear law of the land and traditions of manifest inequality. In a series of famous cases, most prominently *Brown v. Board of Education* but also including others issued before and after *Brown,* the Supreme Court made clear the meaning of the words of the Constitution, that no State shall "deny to any person within its jurisdiction the equal protection of the laws."[18] The widespread system of segregated schools, and the entire set of practices that denied citizens opportunities and civil rights on account of their race, conflicted with this constitutional command.

A small group of judges was largely responsible for ensuring that the Constitution and the Supreme Court's teaching endured in the face of often great, often widespread, and occasionally violent resistance. As we know now, the rule of law prevailed. But that conclusion was for many years less than certain, and much that prevented bloodshed, established and protected civil rights, and maintained respect for an independent legal system can be traced to the courage and dedication of a small band of judges. Many have singled out for praise a group of leaders on the Fifth Circuit during that period, known colloquially as The Four: John Minor Wisdom of Louisiana, Elbert Tuttle of Georgia, Richard Rives of Alabama, and John Brown of Texas. Professor Burke Marshall, a former Assistant Attorney General, has concluded:

> Those four judges . . . have made as much of an imprint on American society and American law as any four judges below the Supreme Court have ever done on any court. . . . If it hadn't been for judges like that on the Fifth Circuit, I think *Brown* would have failed in the end.[19]

It is cause for both celebration and shame that these judges had to sacrifice so much merely to perform their duty. We can now celebrate their courage, yet still feel shame that simple principles of equality were so steadfastly resisted. The dedication of these judges

17. 347 U.S. 483 (1954).
18. U.S. CONST. amend. XIV, Sec. 1.
19. J. BASS, UNLIKELY HEROES 17 (1981).

to the Constitution shaped nearly every significant event in the struggle for civil rights: the battles over desegregation of the State Universities and local school systems, the efforts to give effect to the right to vote, and the conflicts over dismantling the Jim Crow system of public segregation.

These and other federal judges made significant personal sacrifices. After Judge Frank Johnson had affirmed equal protection principles in the Montgomery bus boycott case, a bomb exploded at the home of Judge Johnson's mother, listed in the telephone directory as Mrs. Frank M. Johnson, Sr. Vandals desecrated the grave of the son of Judge Rives, who also decided that case.[20] Judge J. Skelly Wright, in the midst of a multi-year struggle between his court and local officials over the desegregation of New Orleans' schools, required shifts of federal marshals to protect his home and escort him to and from work.[21] Many of the judges received death threats and ongoing harassment. In perhaps the greatest hardship, many judges were ostracized by former friends and associates, made outcasts in their own communities and condemned for understanding and upholding the Constitution.

Many others, lawyer and non-lawyer alike, also have sacrificed to preserve this Nation's commitment to the rule of law. Only at our peril do we ignore that sacrifice, or forget that we, too, are called upon to uphold that ultimate tradition and value.

I have in a sense wandered far afield from the Judiciary Act of 1789. In a more important sense, however, our recognition of these three groups of judges has illustrated the most important aspect of that Act. The Act initiated and made possible the American judicial tradition, with its judicial independence, commitment to considered democratic governance, and adherence to the rule of law.

We might gain a sense of the full measure of that tradition if we cast our thoughts back nearly two centuries, to the years just following the passage of the Judiciary Act. Imagine accompanying one of the Justices of the Supreme Court as he rode the circuit. In those early years, the Justices spent a good portion of each year traveling to the Districts in one of the Nation's three regions to sit with the local District Judge as members of the Circuit Court. Travel was difficult and slow, and the journey in a single circuit term could among to a trek of thousands of miles.

The land we would pass through would strike us as nearly foreign. The Nation was as much a confederation as a union, with each State

20. *Id.* at 79.
21. *Id.* at 115.

often functioning as a separate country, containing its own, separate culture. The economy was overwhelmingly rural, with plantations already well developed in some regions and new, single family farms being carved out of the wilderness in others. Only a handful of cities were home to more than 10,000 persons, and the age of manufacturing and scientific revolution could just be discerned. For many, life was difficult beyond comprehension. Slavery, with its attendant evils, existed in much of the Nation. The judicial system and the protections it could afford were rudimentary. Governance of the Western Lands and relations with the Native American tribes were in disarray, and the intrigues of hostile powers threatened to enmesh the small, young country. The future of the new Nation, in short, was uncertain.

We should be proud to our successes during the following two centuries. The Nation has established its place in the world as a land of freedom and opportunity. We have righted some injustices and strive to right others. We owe much of that success to the men and women who have shaped and maintained our Nation's judicial tradition. We have succeeded in large part because we have remained committed to considered change through adherence to the rule of law. The Judiciary Act did not of course create that tradition, yet the Act was an important part of the beginning of it. A bicentennial celebration is a time of renewal as well as recollection, and few efforts will better serve our Nation than our collective rededication to our unique legal tradition, one we can trace to the Judiciary Act, the Framing of the Constitution, the Revolution itself, and the enduring values that animated each of them.