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The Warren Court in American Fiction

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Since the days of the early Republic Americans have tended to view their highest judicial body -- the Supreme Court of the United States-- with a mixture of awe and suspicion. The well-publicized debates that preceded the ratification of the Constitution implanted some enduring judicial stereotypes in the public consciousness. Proponents of a strong national government assured newspaper readers that the new federal judiciary would be the "least dangerous branch" of the government, since the Court would have no control over the nation's finances or military forces. In *The Federalist Papers* (1787-1788) Alexander Hamilton further defended the life-tenure and salary provisions of the Constitution as essential devices to protect a body of skilled jurists from the encroachments of Congress and the President.[1] Opponents of the Court, on the other hand, charged that, with its independence of popular control, it might easily become a despotic agency bent upon its own aggrandizement. In Pennsylvania the anonymous author of the *Letter of a Democratic Federalist* (1787) predicted that the Court would collaborate with Congress to establish a dangerously consolidated government, in which citizens might have to travel hundreds of miles to prosecute a lawsuit.[2] These archetypal images of the Court--a group of Platonic guardians vs. a conspiratorial political cabal--have persisted, and continue to provide a point of departure for creative writers.

Few nineteenth-century novelists mentioned the Court in their works, and none sought to portray the effects of a major Court decision upon American society. In part their lack of interest reflected the realities of antebellum federalism. Prior to the Civil War Americans lived under a state-centered federal system, in which the power of the national government seldom intruded upon their daily lives. Most writers, moreover, agreed with Hamilton that the Justices were merely passive oracles of the law, and had no hand in shaping important public policies. Even James Fenimore Cooper, a major critic of American institutions, could find nothing much to say about the Court. In The Monikins (1835), an otherwise biting attack on the excesses of Jacksonian Democracy, Cooper simply introduced the Justices as the "Supreme Arbiters" of the country of "Leaplow," whose functions were "to revise the acts of the other three agents of the people, and to decide whether they are or are not in conformity with the recognized principles of the Sacred Allegory."[3] Such noncommittal treatment of the Court was in keeping with the generally reverent tone adopted by other early writers.[4]

With the rise of the modern regulatory state, however, a more critical view of the Justices soon became popular. Turn-of-the-century authors, reflecting the reformist concerns of the Populist and Progressive eras, depicted the Court as a politicized body that promoted the interests of Big Business at the expense of the general welfare. Some popular novelists, including Robert Herrick, followed Charles Beard and other scholars in blaming socioeconomic conditioning for the Court's hostility toward economic regulation. Herrick's *A Life for a Life* (1910) presented the Justices as an-dent logic-machines, who had been programmed to respond only to the legal formulae of a pre-industrial age. Other writers espoused a cruder vision of class conflict. In Reginald Wright Kauffman's Socialist novel, *The Spider's Web* (1913), the Justices are little more than hired employees of a sinister "Money Power." Such negative appraisals of the Court persisted into the 1930s, as writers emphasized the Justices' power to obstruct national economic recovery by striking down important New Deal measures. Judicial intransigence eventually led to Franklin Roosevelt's abortive Court-packing plan of 1937, which opened a new chapter in the literary history of the high bench.

After 1937 the Justices accepted the legitimacy of federal and state economic regulation, and turned their attention increasingly to issues of civil liberties and civil rights. Through the due process clause of the Fourteenth Amendment they gradually applied the guarantees of the Bill of Rights for the first time to the states. Under Chief Justice Earl Warren (1953-1969) this trend accelerated, bringing to the Court a whole range of morally charged issues--from obscenity to the rights of suspected criminals--that made a strong appeal to the literary imagination. In addition, as Alexander Bickel has noted, "[Al broadly-conceived egalitarianism was the main theme in the music to which the Warren Court marched."[5] Writers found the democratic thrust of some major decisions well suited for the construction of dramatic plots, especially since the cases involved humanistic values that any reader could appreciate. For all these reasons, the Warren Court inspired a uniquely rich and varied body of fiction, which may be analyzed in terms of three major categories: (1) works that describe the social effects of the *Brown* decision; (2) works that portray the criminal justice system after the Court's "due process revolution"; and (3) novels and plays that focus upon the Court as a functioning institution. These categories are by no means exhaustive. Other themes, including the Court's response to the Communist hysteria of the 1950s, might be added, and no effort will be made in this essay to include all relevant titles within the three designated categories. Rather, books have been selected to illustrate representative perspectives on the Court that may be found in a much larger body of creative literature.

CIVIL RIGHTS FICTION

"In the United States," Lief Carter has observed,

> *the Constitution and the meanings the Supreme Court imputes to it, play, judging from the prominent treatment educators and journalists give it, a major role in maintaining beliefs in the goodness of the polity. We read judicial opinions in constitutional cases, not just their legal outcomes, because the opinion, not the outcome, persuades us that we experience political goodness together.*[6]

The decision in *Brown v. Board of Education*[7] stirred the national conscience as few judicial pronouncements have ever done, but did not persuade white Southerners to desegregate their schools. Instead, organized resistance to the *Brown* ruling quickly spread throughout the South. As Southern blacks in turn launched boycotts and other demonstrations in support of their civil rights, creative writers exploited the theme of racial justice to create what might be termed fictional impact studies of the desegregation decision.

In two early novels *Brown* acts as a catalyst to force quiescent liberals--representatives of the "silent South"--to take a public stand against conservative community opinion. George Case, the protagonist of Paul Darcy Boles's *Deadline* (1957), is a newspaper editor in a large Southern city. Once an outspoken foe of the Ku Klux Klan, he has lapsed into a troubled silence on racial issues since the *Brown* ruling, which he considers as potentially devastating to traditional Southern life as an erupting volcano or a hydrogen bomb blast:

> *Yes, he thought; that was the beginning of it; right after the Court decision, when the news spread not the way a newspaper carries i4 but like an old fire, the spook of a fire that is blown again to hot coals; a silent spreading of news even—not talked out all the way, except in the wild noise of rednecks on street-corners and in hideouts like drugstores and horse parlors--silent and yeasting inside the blood of the working veins. That was the declaration of war. That was what I couldn't touch; that was when I began to make my peace. For am I not against war, against it so that I do not dare to take up arms?*[8]

While Case wrestles with his conscience and his sense of professional responsibility, his friends offer conflicting advice. Finally, when the Yankee owners of his paper warn him not to offend the sensibilities of his segregationist readers, he decides against further equivocation. In an emotional speech before the local Women's Club, he declares his support for *Brown,* "this terrible, inconsiderate order, this foul yet wonderful order, of the Supreme Court of the United States of America." The Court, he urges, has given the South a unique opportunity to grow up:

> *By actually, first time to my knowledge in history, settin' our own deadline for decency humanity what you will. By provin' for all time—first to the North, then to the worl4 to the atomic-waiting world—and most of all maybe to ourselves--that we can handle our own affairs with courage and dispatch and joy and simple honor that can stand as a mark for civilization to aim at through all days to come. So I'm for integration. Now. Handled by us, with no federal intervention wanted or needed.*[9]

As his listeners walk out on his speech in dismay, Case feels a countervailing sense of inner satisfaction. He prepares an even stronger statement of his integrationist views for the Sunday paper, knowing that he will not be permitted to publish any further editorials.
Other professional types--a schoolteacher and a minister--must choose between principle and self-interest in Lettie Hamlett Rogers's novel Birthright(1957). When Martha Lyerly's fifth-grade students demand to know why segregated schools are unconstitutional, she ignores her principal's order to keep silent, and explains that the nation was founded so that all persons might enjoy equal opportunity and equal treatment under the law:

> *The Supreme Court has held that no person can be turned away from a public school because of his color. We're all Americans together. If there's a heaven, I don't think there'll be two gates, one marked White and the other Colored. I don't believe Saint Peter is going to say, 'Colored souls please seat from the rear.'*[10]

The children, who have imbibed their parents' racial prejudices, react with shocked disbelief, and Martha finds herself ostracized by the small Southern town in which she lives. The

school board refuses to renew her teaching contract; she receives threatening messages warn-mg her to leave town; and in time she does.

Her example nevertheless causes a local minister, Seth Erwin, to reexamine his own beliefs and obligations in light of the *Brown* ruling. A cautious man from a politically powerful family, Erwin has always avoided controversy, yet is driven despite himself to preach a stirring sermon against segregation in his fashionable church.

> *You could not overturn a whole tradition and a whole heritage [he reflects]. The Court's way was not only not the right way but the way of retrenchment and regression and grievous trouble;...So, knowing which to the very marrow of his bones, Seth Erwin had to preach his sermon!*[11]

While his family connections protect him from physical violence, he loses most of his congregation. His commitment to racial justice continues, however, as he works with black civil rights activists to secure the school board's compliance with the desegregation decision.

Black protagonists occupy center stage in many other works. Lucy Daniels's *Caleb. My Son* (1956) describes the divisive effects of *Brown* upon an Afro-American working-class family in North Carolina. To the children of Asa and Effie Blake, the Warren Court's ruling means an end to all forms of racial inequality. Caleb, the eldest son, organizes a group of young militants in immediate response to *Brown.* "We got a right to all these things," he tells them.

> *We always had a right. But now they's a law. Now they gotta live up t' what they always say.... We gotta give 'em a chance **t'** do **it,** though. If they don't, we'll make 'em, but we gotta give 'em time....*[12]

When some gang members grow restive despite Caleb's pleas for patience and non-violence, he agrees to start dating a white girl as a defiant demonstration of equality. News of his action splits the black community and embitters relations within his family. His father, a conventional man who has long accepted his place within a caste system, vows to stop him from disgracing the family name:

> *A white woman! ....All his life he been tol' 'white's white and black's black.' An' now wid his big ideas 'bout equality, he done laid down the*

most impohtant laws he evah learnt.[13]

When Caleb flouts his father's authority, Asa goes in search of him with a shotgun, and kills him as he approaches with his blonde girlfriend.

By the 1960s the inability of the federal courts to enforce their decisions--a characteristic originally noted by Hamilton--had become a subject of satirical commentary. Langston Hughes, the noted Afro-American writer, adverted to the problem several times in his popular newspaper sketches featuring Jesse B. Simple, the homespun Harlem philosopher. In "A Rude Awakening," Jesse dreams that the races have exchanged position, so that a black Supreme Court is now trying to protect the civil rights of white litigants, with the same infuriating delays:

> *What is getting into white folks since Chief Justice Thurgood Marshall handed down that last decree from the Supreme Court bench granting everybody the right to file another suit to get their rights? Don't they want to go through the orderly process of the courts and sue and file until they get to be old men and womens?*
>
> *If at first you don't succeed file and file again, I say. White folks, these things take time. Don't rush into integration without preparation. Just because a handful of old Negroes wearing robes in the Supreme Court says your rights are constitutional, it does not mean they are institutional. Our great institutions like the University of Jefferson Lee belong to us, and not even with all deliberate speed do we intend to constitutionalize the institutionalization of our institutions*.[14]

As the leaders of the civil rights movement looked increasingly to Congress and the executive branch for assistance, novelists played down the role of courts in describing the later phases of the struggle. Yet the *Brown* decision remained an important literary symbol--a reference point that legitimized all subsequent steps toward racial equality. In his representative novel *'Sippi* (1967), which chronicles the increasingly violent confrontations between white and black Mississippians in the 1960s, John Oliver Killens begins by illustrating the corrosive effect of *Brown* upon traditional class relationships. When Jesse Chaney, a black sharecropper, first hears of the decision, he stops picking cotton and runs to the house of his paternalistic employer, Charles Wakefield:

> *'The Supreme Court done spoke!' Jesse shoute4 like he had just got that old-time religion and his soul had been converted. 'Ain't going around to the back door no more.... And another thing--ain't no more calling you Mister Charlie. You just Charles from here on in.'*[15]

Chaney transmits his sense of empowerment to his son, Charles Othello, the hero of the story, who becomes an important civil rights leader in the 1960s.

Brown similarly encourages Afro-Americans to claim their constitutional rights in Ntozake Shange's Betsey Brown (1985). "The time has come for us to do something about our second-class citizenship, and this separate but equal travesty we call our lives," Greer Brown, a black physician, tells his teenaged daughter Betsey and his other children.[16] As he prepares them to participate in civil rights demonstrations and to become the first minority students in the all-white public schools of St. Louis, he constantly reminds them of the Warren Court's pronouncement that integration is the law. Led by Betsey, the children march off to their first day of integrated classes, chanting

> *All they can say is it's the law*
> *All they can say is it's the law*
> *Do they do it? Do they do it?[17]*
> *Naw.*

While all civil rights fiction portrayed the Court in Hamiltonian terms as a wise and impartial tribunal, some writers also introduced the counterimage of an oppressive federal judiciary, which the opponents of *Brown* used as an ideological rallying point. The Court's integration order "is jest the start of the nigger-New York Jew plan for gittin their hands on the fair bodies of our Southern white women," asserts a speaker at a Ku Klux Klan rally in Ben Haas's *Look Away. Look Away* (1964). From racially mixed classrooms it is but a step to more intimate forms of social equality that will end by transforming the South into a mongrelized democracy. Stripped by judicial fiat of their police powers under the Tenth Amendment, the Southern states will again succumb to federal tyranny, as in the Reconstruction era. Only a revitalized Klan, the speaker warns, can save the South from "the dirty New York Communist Jews and the Communists in Washington and the Jew Court with its Frankfurters and its Warrens and its traitors like Hugo Black that used to be a Klansman himself."[18]

Other novelists rang changes upon this theme of judicial conspiracy and subversion.

Jesse Hill Ford, in *The Liberation of Lord Byron* Jones (1965), describes a meeting of the black shirted Citizens group, whose president announces that the dues will help pay for

> *scientific studies of the nigger because it has got to be proved to some people scientifically that the nigger is the inferior race he is before we can either get the Supreme Court impeached or reversed. It don't matter which we do and we are going to do one or the other.*[19]

Although such inflammatory harangues generally lead to terrorist assaults upon blacks, they may also provoke acts of symbolic violence directed against the Court itself, as in this scene from Lisa Alther's Original Sins (1981):

> *A young boy sitting on an older man's shoulders threw a rope over an elm branch. He fitted the noose around the neck of a dummy wearing a sign reading" 'Justice' Earl Warren." The crowd fell silent, watching. The dummy dangled and twisted in the dusk. The boy dumped kerosene on it and held a match to it. As it was enveloped in leaping flames, the crowd howled.*[20]

While literary works reflected--and exploited--the controversy engendered *by Brown* , no writer used a fictional format to attack the Court's civil rights decisions. The situation was quite different, however, with respect to issues of criminal justice.

CRIMINAL JUSTICE AND THE COURT

In the 1960s the Warren Court handed down a series of landmark decisions that nationalized the procedural rights of defendants in criminal cases.[21] Commentators, looking at the new rules governing illegally seized evidence, self-incrimination, and access to legal counsel, spoke of them as creating a "due process revolution." Law enforcement officials in turn charged that such decisions "handcuffed" the police and "coddled" criminals. Crime control became a major issue in the presidential election of 1968, as Republican candidate Richard Nixon attacked the Court for its excessive leniency toward lawbreakers.

Creative writers played upon popular fears of impending anarchy in their generally negative

treatment of the Court's criminal justice rulings. Typical was Joseph Wambaugh's best selling novel, The New Centurions (1970), which presents the police as "civilization's" last line of defense against the barbaric hordes of the nation's ghettos. In tracing the parallel careers of three young Los Angeles policemen, Wambaugh repeatedly contrasts their firsthand knowledge of criminals with the erroneous ideas of the general public, including Supreme Court Justices. **"...** fl]t sometimes seems to policemen that the court is lying in wait for bad cases like Mapp versus Ohio so they can restrict police power a little more," observes a criminal law instructor at the police academy.

> *You're going to be upset, confused and generally pissed off most of the time, and you're going to hear locker room bitching about the fact that most landmark decisions are five to four, and how can a working cop be expected to make a sudden decision in the heat of combat and then be second-guessed by the Vestal Virgins of the Potomac....*[22]

Within a year after his graduation, one of Wambaugh's protagonists decides to commit perjury in all future stop-and-search situations, so that "he would never lose another case that hinged on a word, innuendo, or interpretation of an action by a black-robed idealist who had never done police work."[23] Writers of detective fiction--a genre known for its no-nonsense approach to crime fighting--took a similarly disdainful view of the Court's efforts to protect defendants' rights. "Screw the Miranda or the Escobedo decisions," growls the tough ex-cop Gillian Burke in Mickey Spillane's *The Last Cop Out* (1973), as he prepares to hunt down and destroy a powerful Mob figure.[24] Hardboiled detectives have always operated on the fringes of the criminal justice system, of course, and their penchant for vigilante action long antedates the era of the Warren Court.[25] More noteworthy has been a tendency in recent fiction to portray the attractiveness of vigilantism for lawyers and judges opposed to the Court's criminal justice rulings.

"I just achieved freedom for a murderer," laments a brilliant defense attorney in Mitchell Benjoya's *Final Judgment* (1978).

> *A man is free, walking the streets, because Of me and a system. We function together, the system and I, indispensable to each other to set murderers free. Do you know the magnitude of culpability for me*

inherent in that marriage?[26]

To assuage his guilt, the attorney assumes the role of executioner, employing an underworld figure to kill his most unsavory clients in the name of 'justice." Similarly, in the hit movie *The Star Chamber* (1983), a group of disgruntled trial judges forms a secret society to plot the assassination of dangerous criminals they have been forced to release because of the "technicalities" associated with the due process revolution. (The term "Mirandize" crops up repeatedly in the screenplay as a pejorative.)

The growth of the victims' rights movement in the 1980s added to this chorus of literary criticism. In Richard Speight's *Desperate Justice* (1987), the killer of a young girl blurts out a confession to the police, who have entered his apartment without a warrant. Later he regains his nerve, and demonstrates "an uncanny awareness of the limits that the law placed on his interrogators, almost daring them to go too far and do too much."[27] When the trial judge refuses to admit the confession into evidence, the victim's parents are appalled:

> *All of the decisions, big and small, had seemed to them to be based on what was fair' to the defendant, not on what was right.... Like many other victims of crime, like thousands before them who had been burdened with tragedy only to find their tragedy compounded in the courtroom, they were rapidly losing faith in the system.*[28]

After the jury returns a verdict of "not guilty, by reason of insanity," the distraught mother of the murdered girl pulls a pistol from her handbag and kills the defendant.

A comparable quest for retributive justice affects even the Supreme Court in Allen Drury's novel *Decision* (1983). Here a newly appointed liberal Justice reverses position and votes to water down the *Miranda* holding in a case involving the convicted killer of his only daughter. The conservative temper of the Reagan years appears as well in the argument of an-other Justice during the conference preceding the announcement of the decision:

> *Which is the greater good the 'rights' of an individual who cares nothing for law or human life and has by his own deliberate act forfeited all claim to charity, or the good of the society which has already suffered deeply from his twisted evil, and could suffer much more if swift and final punishment is not visited upon him? ... It is time, I think; to forget*

> *the precious niceties of the law, the extreme straining after gnats that has plagued our jurisprudence in these recent decades, the general emphasis on further punishing the victim by letting the criminal either go free altogether or escape with chastisement that is not only inadequate but is, in a grim, ghastly sort of way, outright laughable.*[29]

Countering these negative assessments of the due process revolution are a few works that praise the Warren Court for democratizing the administration of justice. These authors are sympathetic to the plight of minority and low-income defendants, whose legal rights were often ignored by police and prosecutors in the pre-Warren years. The hero of Dean Coffin's *Under the Robe* (1970) is a compassionate traffic court judge who shares the egalitarian spirit behind the Court's rulings, and transforms his own courtroom into a showcase for the equal treatment of all defendants, regardless of race or wealth. In words that might have been lifted from Warren's opinion in *Miranda v. Arizona,* he lectures an irate police chief:

> *[Y]ou forget that an individual facing a policeman on any kind of charge doesn't face him on a man-to-man basis. No, sir. There's a lot of authority in that uniform. The Supreme Court has been trying to protect the rights of defendants against charges by police who, by the very nature of their office, have more authority than defendants, especially those defendants without a lawyer and without knowledge of their rights, or of the legal processes.*[30]

A similar concern for protecting the rights of the disadvantaged motivates the Italian-American defense attorney who is the protagonist of John Nicholas lannuzzi's *Courthouse* (1975). "Respect for the law starts in the courtroom," he observes:

> *We cannot possibly expect respect for the law if the system singles out certain individuals--perhaps powerful or wealthy--and gives them special consideration merely because they've got connections.*[31]

In an interesting variation on Wambaugh's argument for the intuitive knowledge of policemen, he also insists that defense lawyers are the only persons in a highly bureaucratized system who really understand defendants as human beings, not "just indictment numbers."

In contrast to the literature of civil rights and criminal justice, a third category of works provides a more balanced perspective on the Court by taking readers inside the institution for a firsthand view of the process of adjudication.

THE COURT AS LITERARY ARTIFACT

Andrew Tully's *Supreme Court* (1963) was the first full-length treatment of the high bench in American fiction. Its publication signaled that the Court as a political institution had finally begun to make an impression upon the popular imagination comparable to that of Congress and the Presidency. Several factors help to explain how creative writers by the early 1960s could anticipate a profitable market for fiction about the Justices and their work: (1) The Warren Court's recent decisions in such areas as race relations and the rights of alleged Communist subversives had generated a political backlash that included Congressional efforts to limit the Court's power and grass-roots demands for the impeachment of Chief Justice Warren. The nightly news on television familiarized a national audience with these assaults upon the Court. (2) Certain advances in the art of judicial biography enhanced the attractiveness of the Court as a literary subject. The remarkable success of Catherine Drinker Bowen's study of Oliver Wendell Holmes, Jr.--*A Yankee from Olympus* (1944)--suggested that readers might respond with similar enthusiasm to a gossipy story about a colorful fictitious Justice. (3) Writers had access to new scholarly works, including Alpheus Thomas Mason's award-winning *Harlan Fiske Stone: Pillar of the Law* (1956), that provided fresh insights into the work routine of the Justices and the process of collective decision-making.

In any event, Tully's gamble paid off. *Supreme Court* became a popular book club selection and an example for later authors who wished to take their readers inside the walls of the Justices' "marble palace." Since 1963 eight notable works of fiction have appeared that examine at length the internal and external pressures operating upon the Court. Six of them are novels: William Woolfolk's *Opinion of the Court* (1966); Henry Denker's *A Place for the Mighty* (1973); Walter F. Murphy's *The Vicar of Christ* (1979); William J. Coughlin's *No More Dreams* (1982); Margaret Truman's *Murder in the Supreme Court* (1982); and Allen Drury's *Decision* (1983). Two plays round out the list: Jay Broad's *A Conflict of Interest* (1972) and Jerome Lawrence and Robert E. Lee's *First Monday in October* (1978), which enjoyed a second life as a 1981 movie.

Collectively, these works tend to follow a common format: A new Justice is appointed to the Court. He (or she) meets the brethren, each of whom expresses a clearly articulated juristic

philosophy and displays some distinguishing personal eccentricity. The physical and intellectual traits of living Justices are carefully scrambled, so that recognizable liberals come out sounding like conservatives, and vice-versa. The new appointee finds himself/herself immersed at once in a series of dramatic cases. These generally involve recent civil rights issues that have been widely discussed in the media. After hearing oral argument, the Justices deliberate gravely, even portentously, with one another. They are well aware of the historic dimensions of their work. As an Associate Justice in *The Vicar of Christ* puts it, "One could look at a finished opinion and know that it would shape the future course of the law and perhaps even western civilization."[32] Often tempers flare; brawls break out in the robing room, and acrimonious debate resounds at the conference table. But at some point institutional loyalties prevail over personal differences, as the Justices join in a common effort to save the Court from some external danger, usually provided hy a new Court-packing plan or a threatened impeachment.

Within this general plot structure, the influence of the Warren Court is discernible in two ways. First, the idea that the Court's most important duty is to promote democratic values and protect individual rights--a leitmotif of the Warren years--resounds through these works. As the judicial protagonist of Supreme Court explains to the President, a Cold Warrior who is trying to pack the Court with conservatives:

> *[J]ust as your function is to promote the welfare of the people as a whole, our function—the function of the courts--is to guard the welfare of the individual, of the minorities. Our function is to decide that any interference with the basic rights of the citizenry, as set forth by the Bill of Rights, is wrong*.[33]

Second, political and legal criticism of the Warren Court for its alleged "lawmaking" reappears in fictional form, as characters in each work debate the legitimacy of judicial activism. Responding to a hostile questioner at his confirmation hearing, a judicial nominee in *The Vicar of Christ* offers the most enlightened assessment of the judicial role to be found in this literature. After noting that he does not believe a judge should legislate, he adds

> *...but no more than the chair can I prescribe a general rule that distinguishes judging from legislating in all circumstances. Our Constitution is so wonderfully vague in many places that a judge has to be creative in interpreting it.... All we can reasonably ask of judges is that they be aware of their views on issues of public policy be willing tore-examine those views in light of any new*

> *evidence, and be sensitive to resist the temptation to read those views into the Constitution.*[34]

For anyone interested in the history and practices of the Court, these works--and especially the novels—offer a body of well-researched background information, coupled with a soap opera plot that includes some painful romantic entanglement for the susceptible protagonist. But the most valuable lesson they impart is that the adjudication of constitutional rights involves a continuing dialogue between the Justices and the public over the meaning of the national experience and the democratic ideals that have shaped it. "The dignity of man rests at the core of the galaxy of American constitutional values," comments the Chief Justice in *The Vicar of Christ*.

> *Its spirit suffuses every clause. Government's duty to protect and cherish that dignity is the moral and political motive force of the whole constitutional system.*[35]

In such imagery one may also glimpse the literary legacy of the Warren Court.

Endnotes

1. *The Federalist Papers* 78, pp. 392-399 (G. Wills ed. 1982).

2. *Letter of a Democratic Federalist* (Oct. 23, 1787), in John D. Lewis, ed., *Anti-Federalists versus Federalists* 152-158 (1967).

3. James Fenimore Cooper, *The Monikins* 257 (1835).

4. For a comprehensive treatment of the Supreme Court in American literature, see Maxwell Bloomfield, “The Supreme Court in American Popular Culture,” 4 *Journal of American Culture* 1-13 (1981).

5. Alexander M. Bickel, *The Supreme Court and the Idea of Progress*, 103 (1970).

6. Lief H. Carter, *Contemporary Constitutional Lawmaking* xiii (1985).

7. 349 U.S. 294 (1955).

8. Paul Darcy Boles, *Deadline* 65 (1957).

9. *Ibid*. pp. 222-223.

10. Lettie Hamlett Rogers, *Birthright* 21 (1957).

11. *Ibid*. 278.

12. Lucy Daniels, *Caleb, My Son* 56 (1956).

13. *Ibid*. 62.

14. Langston Hughes, *Simple's Uncle Sam* 130 (1965).

15. John Oliver Killens, '*Sippi*, pp. xvii-xix (1967).

16. Ntozake Shange, *Betsey Brown* 156 (1985).

17. *Ibid*. 97.

18. Ben Haas, *Look Away, Look Away*, pp. 211-212 (1964).

19. Jesse Hill Ford, *The Liberation of Lord Byron Jones* 122 (1965).

20. Lisa Alther, *Original Sins* 138 (1981).

21. These decisions include: *Mapp v. Ohio*, 367 U.S. 643 (1961*); Gideon v. Wainwright,* 372 U.S. 335 (1963); *Escobedo v. Illinois*, 378 U.S. 478 (1964); *Miranda v. Arizona*, 384 U.S. 436 (1966); and *In re Gault*; 387 U.S. 1 (967).

22. Joseph Wambaugh, *The New Centurions* 21 (1970).

23. *Ibid*. 109.

24. Mickey Spillane, *The Last Cop Out* 111 (1973).

25. *See, e.g*., *William Ruehimann, Saint With a Gun: The Unlawful American Private Eye* (1974).

26. Mitchell Benjoya, *Final Judgment* 177 (1978).

27. Richard Speight, *Desparate Justice* 36 (1987).

28. *Ibid*. pp. 42-43.

29. Allen Drury, *Decisions*, pp. 416-417 (1983).

30. Dean Coffin, *Under the Robe*, pp. 118-119 (1970).

31. John Nicholas Iannuzzi, *Courthouse*, pp. 236-237 (1975).

32. Walter F. Murphy, *The Vicar or Christ* 138 (1979).

33. Andrews Tully, *Supreme Court*, pp. 402-403 (1963).

34. Murphy, *supra* note 32, pp. 128, 130.

35. Ibid. 176.