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Earl Warren

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SYMPOSIUM

CURRENT CONSTITUTIONAL ISSUES

FOREWORD

EARL WARREN, CHIEF JUSTICE OF THE UNITED STATES

It is highly fitting that the *William and Mary Law Review* should undertake so timely a discussion of vital constitutional issues. For the College of William and Mary and the Marshall-Wythe School of Law stand at the very source of both great streams of American constitutional thought. It was Thomas Jefferson who as Governor of Virginia in 1779 exerted his influence to have the first Chair of Law established at the College and to have appointed to that Chair his own mentor, George Wythe, a signer of the Declaration of Independence and later a member of the Philadelphia Convention of 1787. And it was here that John Marshall, Jefferson's rival in the great debate which forged for generations the shape of our constitutional institutions, received part of his own training.

That great debate has continued in endless permutations right down to the present day, given unity and shape by the unchanging role of the United States Supreme Court. For on the Court today we must constantly remember with Marshall that "it is a constitution we are expounding, a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs." The specific constitutional problems we face today and the context in which they arise differ of course from those of Marshall's day. The Supreme Court then struggled, as we do now, with the ongoing task of completing the work of the Framers and giving meaning and shape and coherence to the form of government which they ordained. But first and foremost the Marshall Court set about the vital job of establishing beyond contradiction or cavil that this is one Nation, with a National Government supreme in the performance of the functions and the exer-

cise of the powers assigned it by the Constitution. Niggardly construction of those powers or impractical adherence to abstract theories could well have choked to death the great experiment of the Framers before it had a chance to succeed.

Today the focus has shifted somewhat. In litigation which now comes before the Supreme Court we explore the full meaning of equal protection of the law and due process of law, as these concepts apply to the rights and duties of men and States toward each other and toward the Federal Government. And yet we still strive as Marshall did to preserve the form of government bequeathed to us by the Framers and to find an accommodation for the competing claims of the eternal constitutional triangle of individuals, the States and the Nation. If we are to be true to the Constitution which we are expounding, we cannot afford, any more than Marshall could, to be niggardly or impractical.

Thus, it is especially important as we move forward in a new era of constitutional development to undertake a frank and full re-examination of the constitutional themes around which this symposium is constructed. The editors of the *William and Mary Law Review* have collected a series of important essays by a group of distinguished scholars, which seek to come to grips with such monumental questions as the relationship of the Constitution to our education, our morals, our religion, our political life, our private lives as men, and our rights as individuals when confronted by the interests and the power of the government. Such an undertaking is a service to the courts, the bar and the public. It is a wholesome thing that in our society we engage in frank public debate on these questions at a time when all men of good will grope for new modes to adapt our Constitution to yet another in the unending crises of human affairs. And it is a source of pride and gratification that this School of Law, which played so great a role in shaping our constitutional government at an earlier time, continues to serve that same cause by devoting its attention and energy to the constitutional problems of today and tomorrow.