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informed by diverse political visions, preexisting facts reframed by new norms, it fulfills its function and operates as a governing triad. In doing so, the Court benefits, as recognizes, is as significant as its actions. In meaning, the articulation of what White (him) called a “public philosophy.” The Court’s preferences. There is more to this than Kahn gets this and has taught it. His Court’s major role in *constituting* the polity (Greenstone 1988).

Contestation over where the principles—substantive commitments and their meaning—is constitutive of that contestative in part because there is “no precedent for a particular court decision.” These are the things the Court has to apply polity and rights in a dynamic, economic, and political environment and by studying “the link between social, political, world and constitutional law and theory.”

### III.

My complete assent to Kahn’s project and application. I have particular problems in applying his general model to particularized groups under the Equal Protection of an antiegalitarian conservative government. These are the means by which Kahn has effected constitutional development.

It seems to me that Kahn tells conservatives facing facts as they really are and their first inclinations, in the more liberal world, should be moving. The facts, the direction and, although the ride is not perfect, is the best of all possible worlds.

Kahn’s assumptions concerning the future are resplendent in the bright light of

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*Plessy v. Ferguson*, 163 U.S.

*Roe v. Wade*, 410 U.S. 111.

*Schachtel Poultry v. U.S.*, 297

*U.S. v. Butler*, 297 U.S. 1.

*Wisconsin v. Ioder*, 406 U.S.

Supreme Court

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