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6440R – 1964 Fall Term of Supreme Court

Guest: W.J. Simmons

Morphew: Introduction...administrator of CCA and editor of The Citizen...the fall term of the United States Supreme Court is just now getting underway and it's being said that it holds promise of being a very interesting one, do you agree?

Simmons: Yes, I certainly do agree. I think it bids fair to be one of the most interesting sessions in quite awhile.

Morphew: What are some of the cases they will be deciding this term?

Simmons: Some of the cases, Dick, which I think will attract the most public attention involve the recently passed Civil Rights Act, and more particularly, the controversial public accommodations section of the act. In this respect, there are two cases involved, one from Atlanta, Georgia, one from Birmingham, Alabama, each tried before 3-judge courts and resulting in directly the opposite decisions. In Georgia, the court declared the public accommodations section was constitutional. In Alabama a different 3-judge court declared it was not constitutional.

Morphew: This 3-judge federal court is used whenever the constitutionality of a law is directly being challenged, is this correct?

Simmons: That's correct. It's a special provision for trying cases of this far-reaching a nature.

Morphew: And the court in Georgia heard 2 cases, one concerning a motel, the other a cafeteria...the court in Alabama heard a case concerning a restaurant

Simmons: That's correct.

Morphew: How could 2 3-judge federal panels so close together rule exactly opposite one another on the constitutionality of the public accommodations section of this bill?

Simmons: Well, Dick, it might be a brave man who would try to attempt to explain any such subjective matter like that, but there were involved, in addition to the different factors of the way different men look at things, slightly different facts in these cases.

Morphew: These cases even went so far, in Atlanta for example, they ruled that if the restaurant operator ordered food from a company in Atlanta but the food originated in another state then he was involved in interstate commerce and in Alabama the court took a more historic stand that as long as the dealer and the buyer were both in the same state it wasn't interstate commerce

Simmons: Yes, I believe that is correct and it reminds one of the seemingly far fetched definition of interstate commerce that was arrived at a number of years ago in another Supreme Court decision involving elevator operators. They were found to be in interstate commerce because passengers riding on the elevators might have come from another state. I know this type of definition seems very far fetched to the average person who conducts his affairs by rule of thumb and by common sense, but on such differences great questions of law do seem to turn.

Morphew: Why is this question of public accommodations such an important matter?

Simmons: Dick, it's so important because it literally means the difference between economic life and death for thousands of small businessmen and some large businessmen, too. It is extremely important.

Morphew: Why is this true?

Simmons: You mean, why is it the difference between life and death economically?

Morphew: Yes...what is so important that it could make the difference between staying in business and going broke?

Simmons: Well, it means this difference, that it is an established fact that regardless of what people say they believe and regardless of what section of the country they live in, the white people of the United States have demonstrated over and over and over that they simply will not enter integrated situations involving large numbers of colored people. They simply will not do it. Therefore, if a restaurant or hotel is exposed to the operation of the public accommodations of the Civil Rights Act and if large numbers of colored people take advantage of it, it means that his white customers simply will leave him and he will either have to adjust himself to a colored business, a Negro business, or quit.

Morphew: Are there any signs that those who backed the civil rights act or at least said they did are now wishing that the SC would take them off the hook by making this section unconstitutional?

Simmons: Yes, Dick. I expect if the truth were known there would be many who voted for it, particularly those who voted reluctantly who would be very happy to be let off the hook. Our listeners may recall at the time the civil rights bill was being debated it was openly claimed by responsible members of Congress that if a secret vote were taken the Civil Rights Act wouldn't get a hatful of votes.

Morphew: Another point that has been raised is that the Thirteenth Amendment of the constitution bans involuntary servitude, how has this question been raised?

Simmons: It has been raised by Lester Maddox of the Pickrick Cafeteria in this Atlanta case which we've been discussing a bit previously. It was disposed of in his original case by the court which ruled that the Pickrick Cafeteria was a corporation and as such, being not a flesh and blood person but a legal person, was not subject to the conditions of involuntary servitude. However, now Lester Maddox is now operating as the Lester Maddox Cafeteria and in his own individual person so that he himself as a man would be subjected to involuntary servitude by requiring to perform services against his will, and this raises directly the challenge to the Thirteenth Amendment which of course makes illegal slavery.

Morphew: This question is on the minds of a lot of people, particularly those outside the South who are listening to this broadcast, don't you believe every American, white or Negro, should be able to travel throughout the country and be able to get a meal and a place to stay?

Simmons: Dick, the fact of the matter is that he can. A person can get a meal or he can get accommodations within reason wherever he chooses to stay. Now of course, you and I and I know everyone listening to this program has traveled many times and he's been disappointed when he's come across a likely looking motel that had a no vacancy sign. Well, we don't feel inclined to make a federal case out of it. We may be disappointed but we go on and find somewhere else to stay. The fact is that in the South due to its sizeable Negro population there are very satisfactory Negro motels and restaurants operated by Negroes, for Negroes. It's a very interesting thing here, Dick, to point out as a sidelight that one sees along southern highways signs advertising, say for example, the XYZ motel for colored only. Now, this is a fairly common sight. Or such and such a restaurant for colored only. I dare say, if a white restaurant did such a thing as that its operator would be hauled into court before the paint was dry on the sign. The fact is that one never sees such things advertising for whites.

Morphew: We've been discussing this question from the white man's standpoint, but isn't there a possibility that it might cut both ways? What about the Negro motel operator who has a lot of money tied up in his business and has been doing business for quite some time, isn't he more likely to be hit than the white operator?

Simmons: Yes, he certainly would be. And this is a fact which the fanatical proponents of the civil rights bill in Congress seem to have given no thought to, but the fact is that he is, the colored businessman is very likely to be the first to suffer. As a matter of fact, I recall having seen in the papers not too long ago that there was complaint from many Negro businessmen in Detroit against the integrationist organizations because they were hurting their business.