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The second half of the 20<sup>th</sup> century proved a golden age of civil rights. It was marked by a string of court cases, executive orders, and social changes that progressively increased the fundamental rights of those involved in criminal proceedings. Perhaps the most essential principle of American criminal jurisprudence firmly established in this era was the right to due process, a right that encompasses all other constitutional protections for the accused. Defining a key component of due process was the decision regarding the right to counsel in the 1963 case of *Gideon v. Wainwright*.

Clarence Gideon was charged in a Florida court with a felony, described specifically as illegally entering a poolroom intending to commit a misdemeanor. The Florida court denied Gideon's request for free counsel, ruling that Florida law only allowed the appointment of counsel in capital cases. Gideon—without legal training and resources—fought the charge, but nonetheless was convicted. Writing for the court, Justice Black overruled the court's earlier decision of *Betts v. Brady* by extending unto states through the 14<sup>th</sup> Amendment the right of appointed counsel granted to impoverished defendants.

While the text of the Constitution is static in the sense that it can only be changed by the amendment process, there are various dynamic factors which make necessary the practice of judicial review by federal courts. One such factor is the emergence of new cases dealing with permutations and scenarios not touched upon by the Constitution because of technological or institutional change, like the legality of telephone wiretapping without a warrant. Another factor is the protean nature of societal norms, which, for example, causes the definition of the phrase "cruel and unusual" to vary. The *Gideon* case involved the latter. The renewed spirit of equity and rights made the time

ripe for a change in the sort of thinking employed in the *Betts* case. In the case, the court reasoned, “Charges of small crimes tried before justices of the peace and capital charges tried in the higher courts would equally require the appointment of counsel.” It also claimed that only what is “fundamental and essential to a fair trial” applied to states through the 14<sup>th</sup> Amendment, and that the right to counsel did not. The court, in *Gideon*, responded: “We think the Court in *Betts* was wrong, however, in concluding that the Sixth Amendment's guarantee of counsel is not one of these fundamental rights [that applies to states as well].” This change in thought proved a significant and much needed departure from the previous notion that a fair trial is guaranteed by only minimal elements.

The *Gideon* case broke new ground in the sphere of rights of the accused, and was itself adjusted and clarified by future court rulings. For example, in the case of *Escobedo v. Illinois*, the court ruled that arrestees must be allowed access to counsel before questioning. As criminal jurisprudence and societal attitudes continue to change, we must hope for even more progress in the realm of civil liberties.

*Gideon v. Wainwright* Essay Contest

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When studying Supreme Court cases, a student can easily distinguish between the mundane and unnoteworthy decisions, and those that are destined to leave a mark on American society. There are the select few that make the “must know” list of terms in any US History or Government class, one of them being Gideon v. Wainwright (1963). In today’s world, representation by a lawyer may be taken for granted. It is hard to imagine a time when the rules were different. If there was anyone who understood the case’s impact, it was Clarence Gideon himself, whose grave is marked by the words, “Each era finds an improvement in law for the benefit of mankind.”

In 1963, an unanimous vote of the Supreme Court Justices overruled their previous *Betts v. Brady* decision in favor of Gideon. It was established that counsel should be appointed, not only for capital crimes, but for all criminal offenses such as Gideon’s breaking and entering charge. It took a man with a cause that he believed in to overturn the law. The Sixth Amendment guarantees a fair trial, but Gideon, in his case, showed that an attorney is an essential aspect of a fair trial. This makes Clarence Gideon a hero in the eyes of all who have come after him in need of a lawyer.

Gideon should be also credited with the creation of a new profession of “Public Defender,” the little appreciated position of those that strive to give all people a chance at justice. Public defenders are almost never recognized for their achievements in this regard. Now, on the fortieth anniversary of this case, we must take the time to show our appreciation for the people who protect equity in our courtrooms.

In current court trials, it seems that the role of counsel has become increasingly more important to the outcome of a criminal case. It is definitely not wise to defend oneself against an

experienced prosecutor even with a fair knowledge of law. Almost everyone would agree with Mr. Gideon, that the right to an attorney in all cases is an improvement in the law. It may actually surprise some people to know that it was not always considered a fundamental right.

Perhaps it would have been more appropriate for the epitaph to read, "Each era finds a man who improves the law for the benefit of all." It is not fair to credit the advancement of the Constitution to the passage of time, but instead, we should remember all the people who took a risk in order to bring justice to the country. The overall structure of the justice system could not exist without the fundamental right to a fair trial as developed in Gideon v. Wainwright. In this age when civil liberty and national security continue to dominate the focus in American legislation, let us be reminded of the advancements in law that have contributed to the open and free society that we enjoy today.

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Clarence Earl Gideon was an unlikely advocate for legal reform. His epitaph, "Each era finds an improvement in law for the benefit of mankind," is a fitting tribute to the tenacity and courage of a man whose indomitable spirit culminated in a landmark decision of the United States Supreme Court in 1963. Gideon's cause shaped the meaning of the 6<sup>th</sup> Amendment to the federal constitution, by guaranteeing legal counsel to all criminal defendants, regardless of economic status.

Gideon was a poor man who was unjustly accused of a crime in Florida. He was forced to go to trial without a lawyer. It was not that Gideon did not want a lawyer; he could not afford one. In fact, at the beginning of the trial he asked the judge to provide him with a lawyer even though he would not be able to pay. The judge denied his request.

The trial was completely unfair, because Gideon did not know anything about court proceedings. Not surprisingly, Gideon was convicted. He was then sentenced to prison. It was there that Gideon began to pursue his claim that, under the 14<sup>th</sup> Amendment to the United States Constitution, he was entitled to due process of law. The 14<sup>th</sup> Amendment of the Constitution provides that states shall not "deprive any person of life, liberty, or property, without due process of law." Gideon believed he was denied due process and asserted that he was denied his right "to have the Assistance of Counsel for his defense," guaranteed by the 6<sup>th</sup> Amendment to the Constitution.

Convinced of the merits of his cause, Gideon exercised his right to ask the United States Supreme Court to hear his case. Led by Chief Justice Earl Warren, the Court agreed to consider Gideon's claims. The Supreme Court had to decide whether to overturn the precedent of Betts v.

Brady, which had been in place since 1942. It provided that a defendant was only entitled to counsel in cases involving “special circumstances,” such as the death penalty or when a defendant had a mental disability.

Gideon prevailed in his fight for justice. The Supreme Court agreed with him and concluded that a poor person who is accused of a crime is entitled to counsel at state expense. Today, public defenders throughout the land play a vital role in implementing that right.

Clearly, this country is a much better place today than it was before Gideon sounded his trumpet, with his urgent call to give meaning to fundamental constitutional rights. Through his effort, we now enjoy a distinct “improvement in law that benefits mankind.” When Gideon stood trial, there was no justice for him. But, he persevered in his struggle for justice, and demonstrated that one person can make a difference.

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### **Commemorating Gideon v. Wainwright**

“The law for the rich and the poor is not the same,” asserted the Roman dramatist Plautus in 200 B.C. Millennia later, in a burgeoning nation an ocean away, Plautus was still correct. The Sixth Amendment to the Constitution provided for “the Assistance of Counsel for his defense [sic],” though oftentimes no attorney was provided for poor defendants. *Gideon v. Wainwright* changed that. In that case a humble Florida thief had more impact on American justice than many wealthier and more powerful people than himself. Such is the intrinsic beauty of the American law: even the least of men can spur evolution.

Throughout its brief, rich history, the United States has bore witness to great change. The citizenry of the portentous period after the American Revolution were different people than live today. The great men who drew up the Constitution, among the most brilliant of this or any generation, could not foresee the future. They could only provide for their own constituents in making laws. Cleverly, soon after the states ratified the Constitution, Chief Justice John Marshall’s court handed down an abiding legal precedent: judicial review. The ruling in *Marbury v. Madison* provides for the evolution of American law based on the Justices’ interpretation of contemporary need.

This facility has been employed time and again by the high court to establish new precedent and overturn outdated rulings. Case in point: the overruling of *Plessy v. Ferguson* by *Brown v. Board of Education*. As America began to transcend its past bigotry, so too did

the law rise above. This is necessary for any good legal system; if law does not evolve to keep up with its subjects, it risks irrelevancy. Change is necessary and proper, to use appropriate jargon.

The Sixth Amendment has been contentious since its addition to the Bill of Rights. In those days of Federalist versus Jeffersonians, states' rights versus federal, it was unofficially decided that the Bill of Rights did not apply to state proceedings. This decision was to evolve with American society. With no "special circumstances" in Clarence Gideon's 1962 theft case, the state of Florida refused to provide an attorney. Gideon tenaciously appealed the ruling to the Supreme Court, feeling it violated the Sixth Amendment. In handing down its ruling, the Warren Court marked an important legal evolution for criminal rights. Now all those accused of a crime have the right to an attorney; even the less fortunate, like Clarence Gideon.

Society, to paraphrase Sir Winston Churchill, can be measured by how well it treats those accused of a crime. In light of *Gideon v. Wainwright*, the United States measures up admirably. The decision reflects an organic quality to American law, a willingness to reassess and redefine. This is of utmost importance to the continued relevancy of the legal system. Obsolescence is not an option for American law, and because of cases like *Gideon v. Wainwright* the system will continue to evolve into the future.