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Professor Sneed's Reply

Joseph T. Sneed
Stanford University

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PROFESSOR SNEED'S REPLY

My colleagues have very kindly dealt with me, and it seems this will expedite our departure from this room. I have but few remarks to make in conclusion.

First with respect to Professor Blum's question about the emphasis which appeared in my paper, I am inclined to agree with him that the situation is not as one-sided perhaps as you may have imagined from my paper; but nonetheless it is always necessary to shout from the rooftop when developing any kind of thesis of this nature. Now secondly with respect to Professor Brown's analysis of the framework of the problem, it is enough to say that I could not agree more heartedly. It is true that the nub of the problem here is that of federalism, and it is true that power to deal with this problem resides at the federal level, and it is true that much, or most for that matter, can be done at the federal level. Whether the legislative draftsmen about which Mr. Lubick spoke, whether the courts, whether the Solicitor General in the Justice Department are going to have the wisdom and restraint that is called for by this problem and the insight that this problem calls for are matters about which, I suppose, I am not as optimistic as Professor Brown.

Now a word about the remarks of Mr. Lubick in connection with the role of tax law in promoting social ends. Tax law is never neutral; it is always for something, and it is always going to have consequences. The problem, of course, is to design a tax law that is consistent with the social ends it had in mind. We may differ about whether the existing tax law is so designed; but we cannot differ on this statement of the issue.

Finally one last word in connection with my use of the term "call to greatness" and variations thereof. It is obviously true that greatness, uniformity of tax results and variety of private law results from state to state are possible and indeed I hope they are achieved. Probably I am wrong in being a bit more pessimistic, as I have indicated, than is Professor Brown. And with that acknowledgement let me send you forth with optimism welling up in your heart; but as you do go forth with such optimism, don't forget this small voice.