

[1963, July 7]

## THE CONSTITUTION AS IT AFFECTS THE NEGRO

A few days ago the eyes of the nation looked toward the centennial of the decisive Civil War Battle of Gettysburg. Unlike the bloody fratricide of a hundred years ago, there was friendly comradeship among the lines of blue and grey which simulated the gory charge up Little Round Top and re-enacted the horrors of Cemetery Ridge. Yet, even as the descendants of the real combatants of Gettysburg clasped hands in fraternal friendship, a voice like thunder sounded a note of warning to the festive crowds. It was Rev. Theodore M. Hesburgh, President of Notre Dame University, saying: "This centennial event is nothing but mockery unless negroes receive equal rights. The struggle heroically engaged in here still goes on as we commit ourselves anew to the proposition that all men are created equal."

What has been the progression in the Negro's CENTURIES-old struggle for equality? What has been the constitutional prelude to this struggle and what has been its confirmation?

The prelude to the present struggle of the negro for confirmation of his Civil rights under the constitution was begotten in the bitterness of the Dred Scott Decision. In this fateful prelude, Dred Scott vs. Sandford, 1857, a Negro was, by a Supreme Court decision, returned to the chains of slavery. This decision the first to invalidate a general act of Congress attempting the solution of a national problem, had two far-reaching effects. First, it settled the right of the supreme Court to determine the nature and extent of the powers of the other branches of government and, second, it made insupportable the settlement of the slavery question by any means other than constitutional revolution. This constitutional revolution erupted as civil war.

With the end of the bloody bath of war, the negro founded new states through the 13th, 14th, and 15th Amendments. The 13th prohibited slavery and involuntary servitude; the 14th conferred citizenship upon him and gave him equal protection under the law. The 15th assured his right to vote. To implement these amendments Congress enacted a series of Civil Rights acts.

Despite these amendments and the Civil Rights legislation, the Negro yet found himself often denied his rights to life, liberty, and property. While the Constitution remained firmly grounded in its bedrock of truth, the minds and hearts of men so often were unwilling to accept these truths. And so the long struggle for civil liberties continued and has continued to this day. There were times when the struggle suffered set backs, such as in the famed 1896 validation of Plessy vs. Ferguson by the Supreme Court.

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The Negro, with hope springing eternal; in his breast, found new rays of light shed upon him in recent years. Through the Constitution the exclusive white primary was outlawed in 1944, thus reversing a 1935 decision. In *Morgan vs. Virginia* in 1946 the Supreme Court held that the segregation of Negroes in interstate transportation is an unconstitutional burden on interstate commerce. In 1954 the Court declared that it is unconstitutional and immoral to segregate in education.

Truly the Constitution has proved to be a bulwark or strength to the Negro. It has been his protector and his defender. It is his shield and buckler and today it is his present strength in a time of great trouble.

How has the Constitution affected the Negro? It has affected him in the same way as it has been felt in the life of every other American. It has given to the Negro his freedom and protect it. It has enumerated and shown to him his responsibilities and given to freedom. It has held up to him the beacon of Freedom and lighted for him a pathway to that freedom.

It is now the grave responsibility of each one of us to prove our faith in the United States Constitution by proving ourselves responsible citizens. Wherever there exists a denial of life we must invalidate that denial. Whenever there exists an abrogation of liberty, we must assert our freedom. Whenever there exists a refutation of property rights, we must uphold that right. To echo the words of Rev. "esburgh: "Each one of us must be in these our times great emancipators:" to finish up in this centenary year and completely and dramatically as possible in all our own communities across the land the unfinished business of which Abraham Lincoln spoke-the word of Freedom."